

BLOCKADES—MEXICO AND RIO DE LA PLATA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A report upon the subject of the Blockades of the Mexican Coast and the Rio de la Plata.

FEBRUARY 22, 1839.

Referred to the Committee on Foreign Affairs.

WASHINGTON, *February 22, 1839.*

I herewith transmit a report of the Secretary of State, with accompanying documents, on the subject of the blockades of the Mexican coast and of the Rio de la Plata, in answer to the resolution of the House of Representatives of the 11th instant.

M. VAN BUREN.

To the SPEAKER of the House of Representatives.

DEPARTMENT OF STATE,

Washington, February 20, 1839.

The Secretary of State, to whom has been referred the resolution of the House of Representatives, dated on the 11th instant, requesting the President of the United States to inform that body " (if the same be not in his judgment incompatible with the public interest) what explanations the King of the French has rendered to the United States in relation to the recent blockade of a part of the coast of the Mexican republic by France; the treatment of vessels of the United States, public or private, by the blockading squadron; the reduction of the castle of San Juan de Ulloa; and the ulterior views and designs of the French Government respecting the Mexican republic: also, to inform the House whether he has proffered to either of the contending parties the mediation of the United States in the premises; and to communicate any correspondence, on the subjects aforesaid, which may have passed between the Government of the United States and that of France.

"And that the President be, in like manner, requested to communicate to the House information of the same tenor in regard to the blockade of the Rio de la Plata by the French, and the differences existing between the French Government and that of the Argentine republic."—has the honor to report to the President, in answer to the above-cited resolution,

the enclosed papers; which embrace all the information and correspondence on the files of this Department in relation to the subjects of inquiry. Respectfully submitted:

JOHN FORSYTH.

To the *PRESIDENT of the United States.*

List of papers.

- Mr. Pontois to Mr. Forsyth, (with enclosure,) May 3, 1838.
- Mr. Forsyth to Mr. Pontois, May 4, 1838.
- Same to same, July 19, 1838.
- Mr. Pontois to Mr. Forsyth, (with enclosure,) July 20, 1838.
- Same to same, July 22, 1838.
- Same to same, July 22, 1838.
- Mr. Forsyth to Mr. Pontois, July 24, 1838.
- Mr. Pontois to Mr. Forsyth, August 16, 1838.
- Same to same, August 29, 1838.
- Mr. Forsyth to Mr. Pontois, September 1, 1838.
- Mr. Pontois to Mr. Forsyth, (with enclosure,) October 12, 1838.
- Mr. Vail to Mr. Pontois, October 19, 1838.
- Same to same, October 19, 1838.
- Mr. Pontois to Mr. Vail, (with enclosure,) October 21, 1838.
- Mr. Vail to Mr. Pontois, October 23, 1838.
- Same to same, October 26, 1838.
- Mr. Forsyth to Mr. Pontois, January 2, 1839.
- Mr. Pontois to Mr. Forsyth, January 4, 1839.
- Mr. Forsyth to Mr. Pontois, (with enclosure,) January 7, 1839.
- Mr. Pontois to Mr. Forsyth, January 9, 1839.
- Mr. Forsyth to Mr. Pontois, January 9, 1839.
- Mr. Anderson to Mr. Forsyth, (with enclosures,) July 3, 1838.
- Mr. Cass to Mr. Forsyth, (with enclosure,) July 14, 1838.
- Same to same, (with enclosure,) August 14, 1838.
- Mr. Vail to Mr. Cass, October 27, 1838.
- Same to same, October 29, 1838.
- Same to same, October 29, 1838.
- Same to same, (with enclosures,) November 6, 1838.
- Mr. Cass to Mr. Forsyth, (with enclosures,) December 15, 1838.
- Same to same, December 15, 1838.
- Mr. Forsyth to Mr. Woodbury, July 24, 1838.
- Mr. Woodbury to Mr. Forsyth, (with enclosures,) July 28, 1838.
- Same to same, (with enclosure,) August 23, 1838.
- The Attorney General to the President, October 11, 1838.
- Mr. Vail to Mr. Slidell, October 26, 1838.
- Mr. Slidell to Mr. Forsyth, November 23, 1838.
- Mr. Forsyth to Mr. Grundy, December 10, 1838.
- Mr. Grundy to Mr. Forsyth, December 11, 1838.
- Consul Hargous to same, (with enclosure,) November 29, 1838.
- Mr. Woodbury to Mr. Forsyth, December 24, 1838.
- Protest, consular correspondence, &c. relating to the case of the American barque "Madonna," of Philadelphia, October, 1838.
- Consul Hamilton to Mr. Forsyth, (with enclosures,) November 30, 1838.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

Washington, le 3 Mai, 1838.

MONSIEUR : Le Gouvernement Mexicain ayant refusé d'accepter l'ultimatum que, dans un but de conciliation, lui avait fait adresser le Gouvernement Français, en date du 21 Mars dernier, le Ministre du Roi au Mexique, qui se trouve en ce moment à bord de la frégate *l'Hermione*, vient de me donner connaissance, par le brick de guerre *l'Eclipse*, expédié à cet effet à *Pensacola*, et de ce refus et des mesures qu'il a provoquées de la part de Mr. le Capitaine du vaisseau, Bazoche, commandant des forces navales Françaises ; et je m'empresse, conformément aux ordres de Sa Majesté, de porter à la connaissance du Gouvernement des Etats Unis la notification officielle suivante :

Tous les ports du Mexique sont déclarés en état de blocus. Ce blocus est devenu effectif pour Vera Cruz dès le 16 du mois dernier, et n'a pas dû tarder à l'être pour les autres ports de la république.

Les ordres qu'a reçus M. le Commandant Bazoche, pour l'exécution de la mission qui lui est confiée, sont, comme vous le verrez, Monsieur, par l'extrait ci-joint de la dépêche que j'ai reçu de M. le Baron Deffaudis, entièrement conformes aux principes libéraux que la France professe en matière de blocus, et sont rédigés de manière à éviter aux neutres, principalement à la navigation des Etats Unis, les entraves qui ne seront pas absolument indispensables pour parvenir au but légitime que se propose le Gouvernement du Roi.

En vous adressant, Monsieur, cette communication, j'ai l'honneur de vous prier de vouloir bien m'en accuser réception aussi promptement qu'il vous sera possible, afin que le départ du brick *l'Eclipse*, qui attend ma réponse à *Pensacola*, n'éprouve pas de trop longs retards.

Je profite de cette occasion pour vous renouveler, Monsieur, l'assurance de ma haute considération.

E. DE PONTOIS.

A l'Hon. Monsieur JOHN FORSYTH,
Secrétaire d'Etat.

[Translation.]

LEGATION OF FRANCE IN THE UNITED STATES,

Washington, May 3, 1838.

SIR : The Mexican Government having refused to accept the ultimatum addressed, with the view of effecting a reconciliation, to it on the 21st of March last by the French Government, the King's minister in Mexico, who is at this moment on board the frigate *l'Hermione*, has just communicated to me, by means of the armed brig *l'Eclipse*, sent for the purpose to *Pensacola*, this refusal, as also the measures which it has induced Captain Bazoche, the commander of the French naval forces, to employ ; and I hasten, sir, agreeably to his Majesty's orders, to make known to the Government of the United States the following official notification :

All the ports of Mexico are declared to be in a state of blockade. This

blockade is rendered effective (or to be enforced) with regard to Vera Cruz, from and after the 15th of the last month, and has doubtless been since extended to the other ports of the republic.

The orders received by the commander, Bazoche, for the execution of the duty committed to him, are, as you see, sir, from the annexed extract of the despatch sent to me by Baron Deffaudis, entirely conformable with the liberal principles professed by France on the subject of blockades; and they are drawn up in such a manner as to preserve neutrals, especially the vessels of the United States, from all restraints and vexations (*entraves*) which are not absolutely indispensable for the attainment of the lawful ends proposed by the King's Government.

On addressing you, sir, this communication, I have the honor to request that you would be so kind as to acknowledge the receipt of it as soon as possible, in order that the brig l'Eclipse may not be detained at Pensacola waiting for my answer longer than necessary.

I avail myself, sir, of this occasion to renew to you assurances of my high consideration.

E. DE PONTOIS.

To the Hon. JOHN FORSYTH,
Secretary of State of the United States.

Extrait de la dépêche de Mr. le Baron Deffaudis, datée

A BORD DE LA FRÉGATE DE S. M. L'HERMINIE,
Mouillage de Sacrificios, près Vera Cruz, 16 Avril, 1838.

1. Aucun navire neutre, dirigé vers l'entrée des ports bloqués, ne sera détenu ni capturé, s'il n'a pas reçu préalablement de l'un des bâtimens de la division Française la notification spéciale de l'existence du blocus. Cette notification sera consignée, par écrit, sur le rôle d'équipage des navires neutres, par le bâtiment croiseur qui les aura rencontrés, et elle contiendra l'énonciation du jour, du lieu, et de la latitude, où se sera faite la rencontre.

2. Les navires neutres qui se trouveraient dans l'un des ports de la république avant le blocus de ce port, auront toute faculté d'en sortir, chargés ou non chargés, pendant l'espace de quinze jours, à dater de celui où le dit blocus sera établi.

3. L'entrée et la sortie des ports de Vera Cruz et de Tampico resteront entièrement libres pour les paque-bots de correspondance, *militaires, et non commerçants.*

4. L'entrée et la sortie de tous les ports de la république demeureront absolument libres pour les bateaux Mexicaines qui se livreront exclusivement à l'industrie de la pêche, à moins que la division navale Française ne se trouve plus tard forcée de revenir, par voie de représailles, sur cette disposition bienveillante.

Vous voyez, monsieur, que M. Bazôche autant que de nouveaux attentats contre la personne ou la propriété des sujets du Roi résidant au Mexique, n'exigeront pas de sa part de mesures de repression décidément sévères, veut se borner à l'emploi des moyens de contrainte les plus doux pour obtenir les réparations que le Gouvernement Mexicaine doit à la

France. Or, cette persistance dans les voies de moderation, indiquées par mon ultimatum, commence à devenir méritoire, après la conduite toute récente du Gouvernement Mexicaine, qui, en tolérant (s'il ne l'a pas lui-même provoquée par ses écrits officiels) la publication des calomnies les plus odieuses sur nos intentions d'asservir le pays, de démembrer son territoire, &c., n'a pas craint d'exposer aux fureurs de la populace, dans l'unique but de se maintenir au pouvoir, non seulement nos compatriotes, mais aussi tous les étrangers établis sur le sol de la république. Cette conduite a été essentiellement contraire aux lois de l'honneur, de la civilisation, et de l'humanité. Vous voyez aussi, monsieur, par les principes que M. Bazoche a adoptés pour règle de sa conduite, que notre désir est d'éviter aux neutres toutes les entraves qui ne seront pas absolument indispensables au but que nous voulons légitimement atteindre. Je suis heureux, d'ailleurs, de pouvoir vous citer un fait qui prouve toute la sincérité de notre désir à cet égard, surtout quand il s'agit des Américains. Aujourd'hui même, M. le Commandant de la corvette l'Ontario étant venu nous voir à bord de la frégate l'Herminie pour nous entretenir de l'arrivée prochaine du paque-bot de correspondance et de commerce, l'Anna Elisa, de New York, nous avons dû lui exprimer notre regret de la nécessité où nous serions d'interdire à ce navire l'entrée de Vera Cruz, ainsi que nous l'interdirons à nos paque-bots de correspondance et de commerce du Havre. Mais nous avons, en même tems, promis à cet officier, sur sa demande, de laisser communiquer en mer le consignataire de l'Anna Elisa, avec ce navire, pour recevoir sa correspondance, et lui donner des instructions sur sa destination ultérieure.

Agréez, &c.,

BARON DEFFAUDIS.

[Translation.]

Extract from the despatch of the Baron de Deffaudis, dated

ON BOARD HIS MAJESTY'S FRIGATE L'HERMIONE,

At anchor off Sacrificios, near Vera Cruz, April 15, 1838.

1. No neutral vessel proceeding towards the entrance of the blockaded ports shall be detained or captured if she has not previously received from one of the vessels of the French division a special notification of the existence of the blockade. This notification shall be, moreover, inserted in writing on the muster-roll of the neutral vessel by the cruiser which meets her; and it shall contain the announcement, together with statements of the day and the latitude in which it was made.
2. Neutral vessels which may be already in one of the ports of the republic before the blockade of such port, will have full liberty to depart, with or without cargo, during fifteen days, dated from that upon which the blockade is established.
3. The ports of Vera Cruz and Tampico will remain entirely free for the entrance and departure of the post office, military, and non-commercial packet vessels.
4. The ports of the Mexican republic shall remain entirely free for the entrance and departure of Mexican boats exclusively engaged in fishing.

unless the French naval division should be hereafter forced, in retaliation, to withdraw this benevolent disposition.

You see, sir, that M. Bazoché is desirous of confining himself to the employment of the mildest measures of restraint for the purpose of obtaining the reparation due by the Mexican Government to France, unless fresh attacks upon the persons or property of the King's subjects residing in Mexico should require him to adopt means decidedly severe. Now, this persistence in the system of moderation indicated by my ultimatum is rendered worthy of praise after the recent conduct of the Mexican Government, which, in tolerating (if it did not even provoke by its official writings) the publication of the most odious calumnies respecting our intentions to conquer the country, to dismember its territory, &c., did not hesitate to expose to the fury of the populace, with the sole end of maintaining itself in power, not only our countrymen, but likewise all foreigners established in the territory of the republic. This conduct is essentially contrary to the laws of honor, of civilization, and of humanity. You also see, sir, from the principles adopted by M. Bazoché as the rules of his conduct, that it is our desire to preserve neutrals from all the restrictions and difficulties (*entraves*) which are not absolutely indispensable for the purpose which we are endeavoring lawfully to effect. I am also happy to be able to state to you a circumstance which proves our sincerity upon this point, especially so far as relates to Americans. On this very day the commander of the sloop of war Ontario called on us on board the frigate l'Hermione, to speak to us respecting the approaching arrival of the packet Ann Eliza, engaged in commerce, and in carrying letters from New York. We were obliged to express to him our regret at the necessity under which we should be, of forbidding this vessel from entering Vera Cruz, as we should also do with regard to our own mail packets from Havre. But we have, at the same time, promised that officer, at his own request, to allow the consignee of the Ann Eliza to communicate with her at sea, to receive her letters, and to give instructions with regard to her future destination.

Accept, sir, &c.,

BARON DEFFAUDIS.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, May 4, 1838.

SIR: I hasten to acknowledge the receipt of your note of yesterday's date, together with the enclosed extract of a despatch addressed to you on the 16th ultimo, by the Baron Deffaudis, notifying this Government, agreeably to the orders of his Majesty the King of the French, that, in consequence of the refusal of the Mexican Government to accept the ultimatum offered to it in March last by the [French] Government, with the view of effecting a reconciliation of the differences between them, all the ports of Mexico are declared to be in a state of blockade; and that this blockade was to be enforced with regard to Vera Cruz from and after the 15th of April, and has doubtless been since extended to the other ports of the republic.

I have lost no time in submitting these papers to the President, for his consideration, and in adopting such measures as were best calculated to give the earliest notice of this event to the American public.

I have the honor to renew to you the assurance of my high consideration.

JOHN FORSYTH.

Mr. ED. DE PONTOIS, &c.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, July 19, 1838.

SIR: In a note which you did me the honor of addressing to me on the 3d of May last, conveying to this Department official notice of the blockade of the ports of the Mexican republic by the naval forces of his Majesty the King of the French, you communicated an extract from a despatch addressed to you by the Baron Deffaudis, setting forth the rules by which the commander of the French naval forces was to be governed in giving effect to the blockade. Of those rules, one, more directly affecting the commerce of neutrals, is in the words following: "No neutral vessel sailing towards the entrance of the blockaded ports shall be detained or captured, unless she shall previously have received from one of the ships of the French division a special notice of the existence of the blockade. Such notice shall be set down in writing upon the crew-list of the neutral vessels by the cruising ship which shall meet them, and shall state the day, place, and latitude when and where the meeting shall have taken place."

The President, to whom your note was submitted, at the same time that he regretted that the occasion should have arisen for the adoption, by the French Government, of measures thus calculated to disturb the commercial relations between the United States and Mexico, derived satisfaction from the liberal character of the principles which were to govern the enforcement of the measures referred to, and caused those principles to be made known to the American public in the promulgation, made by his order, of your official notification of the establishment of the blockade. Relying upon a continued and strict adherence to those principles, the President has been surprised at the receipt of despatches from the commander of the naval forces of the United States in the gulf of Mexico, stating that the commander of one of the ships of his squadron had, while off Tampico, on the 21st of June last, learned from Captain Fournier, of his Majesty's brig La Peyrouse, that the terms of the blockade had been changed by an order of the French Government, a copy of which was produced to him, directing that all vessels appearing off the Mexican coast, except ships of war and the British packet, should be captured at once, and without previous warning.

Although this intelligence comes through an official channel, and seems to originate at an official source, the President is not prepared to believe that a determination so openly in contradiction with the principles professed by the French Government, and with the assurances solemnly conveyed by your note above referred to, could have been adopted, and to

be carried into effect without timely notice to this Government of the intended abandonment of the more liberal and humane policy promulgated upon the authority of that communication.

I need not, sir, do more than call your attention to the effect which the adoption of such a course as that which is here alluded to would have upon the commerce of this country. At present, vessels sailing from the ports of the United States, though apprized of the existence of the blockade, may still direct their course towards Mexican ports, confiding either in a settlement of the difference between France and the republic, and in the consequent cessation of the blockade, or, and above all, in the expected notification by the French cruisers of the continuance of it. If, instead of this friendly warning, they are to be subjected to immediate capture and confiscation, it cannot but be obvious to you that the assurances first given, far from fulfilling the benevolent intentions of his Majesty's Government, must operate as a snare to the American trader and his property.

I hope, sir, that you will have it in your power to contradict the intelligence, authentic though it may appear, which has reached this Department; or so to explain the purport of it as to relieve the President from his apprehensions of the difficulties which would inevitably arise in the event of that intelligence proving well founded.

I have the honor to be, sir, with great consideration, your obedient servant,

JOHN FORSYTH.

Mr. ED. PONTOIS, &c.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

New York, 20 Juillet, 1838.

MONSIEUR : Je viens de recevoir de M. le Consul de France à la Nouvelle Orleans, et j'ai l'honneur de vous transmettre ci-joint, copie d'un rapport que lui a adressé, le 11 de ce mois, M. *Lecont*, officier de la marine royale, chargé de conduire à la *Vera Cruz* la goëlette Américaine *la Lore*, saisie par l'un des bâtimens de l'escadre Française qui bloque les ports du Mexique. Je m'abstiendrai de qualifier ici comme elle le mériterait la conduite du *Capitaine Clark*; mais je suis convaincu que le Gouvernement Américain trouvera qu'elle est sans excuse, quelle que puisse être, d'ailleurs, la décision définitive de l'autorité compétente sur la validité de la prise de la *Lore*; et j'ai l'honneur de vous prier de vouloir bien envoyer le plus promptement possible les ordres nécessaires pour que ce bâtiment soit restitué à l'officier à qui en a été confié le commandement, et pour que le Capitaine Clark et les hommes qui l'accompagnaient soient traduits devant les tribunaux afin d'y répondre de leur conduite.

Je saisis avec empressement cette occasion pour vous renouveler l'assurance de la haute considération avec laquelle je suis, monsieur,

Votre très humble et très obéissant serviteur,

E. DE PONTOIS.

A l'honorable Mons. JOHN FORSYTH,

Secrétaire d'Etat, &c.

11 JUILLET, 1838.

MONSIEUR LE CONSUL: J'ai eu l'honneur de vous donner aujourd'hui les détails de la fâcheuse affaire dont je vous ai entretenu succinctement hier.

Le 28 Juin, M. Duquesne, capitaine du *brick le Laurier*, m'a donné le commandement de la goëlette *le Lone*, pour la conduire à Vera Cruz. Cette goëlette, comme je vous l'ai déjà dit, avait été arrêtée à sa sortie du fleuve de Rio Bravo del Norte. Elle avait violé manifestement le blocus. Le capitaine Américain ayant témoigné le désir d'avoir son second et un homme de son équipage pour ramener son navire aux Etats Unis, dans le cas où M. le commandant de la division Française dans le Golfe du Mexique ne le considérerait pas comme de bonne prise, le commandant du *Laurier* a bien voulu satisfaire à sa demande, en lui disant qu'il lui donnait ces hommes à la condition qu'ils se conduiraient bien, et qu'ils travailleraient à bord comme les Français. Le Capitaine Clark le promit. Vous voyez, donc, Monsieur le Consul, que ces Américains n'étaient pas considérés comme prisonniers, et que nous devons, jusqu'à un certain point, nous en rapporter à leurs promesses, car la parole d'hommes d'honneur est sacrée en pareil cas. Un passager Mexicain ayant obtenu la même faveur, j'avais quatre étrangers à bord, lors de mon départ de Rio Bravo del Norte. Ces étrangers se conduisant bien, j'avais pour eux beaucoup de ménagemens. Pour éviter même toute collision à bord, je n'avais pas jugé nécessaire de laisser mes hommes armés. Pendant la nuit du 3 ou 4 Juillet, le temps ayant mauvaise apparence, je passais ma nuit sur le pont. A 3 heures du matin, harassé de fatigue, je descendis dans la chambre pour prendre un moment de repos. Alors le capitaine Américain est monté sur le pont, et, avec son équipage armé jusqu'aux dents, il s'est emparé de l'homme qui était à la barre, en lui mettant un pistolet sur la gorge. Les trois autres, étant disséminés sur le pont, et désarmés, ont été surpris de même. Après les avoir amarrés, les assaillans ont enfermé les quatre autres, qui étaient couchés. Ces hommes étant sans moyens de défense, ont été obligés de se rendre. Quant à moi, je n'ai eu connaissance de l'enlèvement qu'à 8 heures, en me reveillant. Etant resté hermétiquement enfermé dans la chambre, et fortement barricadé en dehors, jusqu'à mon arrivée à la Nouvelle Orleans, il m'a été impossible de rien tenter pour reprendre le bâtiment. Je m'abstiendrai de qualifier la conduite de ceux qui nous ont pris—je dois dire surpris—si traitreusement. Je pense, d'ailleurs, que notre ministre à Washington, et le Gouvernement Américain lui, même, considéreront le fait que je viens de vous dénoncer comme un véritable acte de piraterie.

J'ai l'honneur, &c.

LECONT,

Elève de 1^{re} classe.

Le Ministre de France aux Etats Unis,
E. DE PONTOIS.

Pour copie conforme.

[Translation.]

LEGATION OF FRANCE,

New York, July 20, 1838.

SIR: I have just received from the French consul at New Orleans, (and I have the honor herewith to send you a copy of it,) a report addressed

to him on the 11th of this month, by M. Lecont, an officer of the royal navy, who was charged to carry to Vera Cruz the American schooner *Lone*, seized by one of the vessels of the French squadron now blockading the Mexican ports. I shall abstain from applying to Captain Clark's conduct the designation which it merits; but I am convinced that the American Government will consider it inexcusable, whatever may, in the end, be the definitive decision of the competent authorities on the validity of the seizure of the *Lone*; and I have the honor to request that you will, as speedily as possible, send the necessary orders for the restoration of this vessel to the officer who was charged with the command of her, and for the summoning of Captain Clark and the persons who accompanied him before the courts, in order that they may answer for their conduct.

I eagerly avail myself of this opportunity to repeat to you the assurance of the high consideration with which I have the honor to be, sir,

Your most obedient servant,

E. DE PONTOIS.

HON. JOHN FORSYTH,

Secretary of State of the United States.

Translation of a letter from Mr. Lecont to the Consul.

JULY 11, 1838.

MR. CONSUL: I have the honor now to present to you the details of the disagreeable affair of which I gave you a succinct account yesterday.

On the 28th of June, Mr. Duquesne, the captain of the brig *Laurier*, gave me the command of the schooner *Lone*, to carry her to Vera Cruz. This schooner, as I have already told you, had been seized as she was quitting the Rio Bravo del Norte. She had manifestly broken the blockade. The American captain having expressed a wish to take his mate and one of his crew with him, in order to bring back the vessel to the United States, in case the commander of the French naval division in the Gulf of Mexico should not consider her as a good prize, the captain of the *Laurier* agreed to his request, telling him, at the same time, that he would allow these men to accompany him, provided they would work on board as the French did. Captain Clark promised to do so; and thus you see, sir, that these Americans were not viewed as prisoners, and that we depended, to a certain extent, on their promises; for the word of a man of honor is sacred, under such circumstances. A Mexican passenger having obtained the same favor, I had on board four strangers at the time of my departure from the Rio Bravo del Norte. As these strangers conducted themselves well, I treated them with much kindness, (*j'avais pour eux beaucoup de ménagemens.*) With a view to prevent all collision on board, I did not even consider it necessary to leave my men armed. During the night of the 3d of July, as the weather was unpromising, I passed the night upon the deck. At 3 o'clock in the morning, harassed by fatigue, I went down into the cabin to take a moment's rest. The American captain then went upon deck, and, with his crew armed to the teeth, he seized the man at the tiller, putting a pistol to his throat. The other three men, who were about the deck in different places, and in like manner unarmed, were also surprised. After having tied them, the assailants

shut up the four others, who were lying down. These men, having no means of defence, were obliged to yield. As to myself, I knew nothing about the seizure until I awoke at 8 o'clock. As I remained fast enclosed in the cabin until my arrival at New Orleans, it was impossible for me to make any attempt to take the vessel back. I shall abstain from any remarks upon the conduct of those who seized us—I should say surprised us—so treacherously. I think, however, that our minister at Washington, and the American Government itself, will consider the circumstances which I have here stated as constituting a real act of piracy.

I have the honor to be, &c.

LECONT,

Elève of the 1st class.

A true copy :

E. DE PONTOIS,

Minister of France in the United States.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

New York, 22 Juillet, 1838.

MONSIEUR: En réponse à la lettre que vous m'avez fait l'honneur de m'écrire en date du 19 de ce mois, je m'empresse de vous informer que je n'ai reçu jusqu'à ce jour, ni du Gouvernement du Roi, ni de M. le Commandant Bazoche, aucun avis des changemens que vous m'annoncez avoir été apportés aux règles précédemment suivies par l'escadre Française, dans l'exécution du blocus des ports du Mexique. Aussitôt que les informations qui m'ont, sans doute, été transmises à cet égard, et dont la réception a pu être déferée par quelque cause accidentelle, me seront parvenues, j'aurai soin de vous en donner communication; elles seront, j'espère, de nature à satisfaire complètement le Gouvernement des Etats Unis.

Vous pouvez, en attendant, être assuré, monsieur, que si le Gouvernement de sa Majesté a cru devoir, comme il en a le droit incontestable, et comme il en a, dès l'origine, prévu et implicitement annoncé la possibilité, substituer aux mesures d'abord adoptées par lui, et dont la violation du blocus, de la part des neutres, aura probablement démontré l'inefficacité, quelques dispositions plus propres à lui faire atteindre promptement le but légitime qu'il se propose, rien dans sa conduite ou dans celle de ses agens n'a pu et ne pourra jamais donner lieu de supposer qu'on ait eu la pensée de tendre *des pièges* au commerce et à la propriété de quelque nation que ce soit.

J'ai l'honneur d'être, monsieur, avec une haute considération, votre très humble et très obéissant serviteur,

E. DE PONTOIS.

A l'honorable Monsieur JOHN FORSYTH,

Secrétaire d'Etat, &c.

[Translation.]

FRENCH LEGATION,

New York, July 22, 1838.

SIR: In answer to the letter which you did me the honor to address to me on the 19th of this month, I hasten to inform you that I have not as yet received, either from the King's Government or from Commodore Bazoche, any notice of the changes which you announce as having been made in the rules previously observed by the French squadron in execution of the blockade of the Mexican ports. As soon as the information, which has doubtless been despatched to me on this subject, and the arrival of which has been probably delayed by some accident, has reached me, I will take care to communicate them to you. They will, I hope, be such as to satisfy the Government of the United States more fully.

In the mean time, you may be assured, sir, that if his Majesty's Government should have thought proper, as it has undoubtedly the right to do, and as has been foreseen and implicitly announced as possible from the beginning, to substitute for the measures first adopted by it, the inefficacy of which may probably have been demonstrated in consequence of the violation of the blockade of neutrals, other dispositions more proper for the attainment of the legitimate end in view, nothing in its conduct, or in that of its agents, has or ever can give room for supposing that any intention has existed to lay snares for the commercial vessels or property of any nation whatsoever.

I have the honor to be, sir, &c.,

E. DE PONTOIS.

To the Hon. JOHN FORSYTH,
Secretary of State.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

New York, 22 Juillet, 1838.

MONSIEUR: Pour faire suite aux informations que contient ma lettre du 20 de ce mois relative à la goëlette Lone, j'ai l'honneur de vous annoncer que M. le collecteur de la Nouvelle Orléans, sans attendre les ordres qu'il avait demandés à Washington, et contrairement à la promesse verbale qu'il avait faite à M. le consul de France, de garder en dépôt, jusqu'à l'arrivée de ces ordres, le navire et le chargement en litige, a pris sur lui de donner l'entrée au dit bâtiment, et de délivrer l'argent et les autres articles qui composaient le chargement. En signalant ces faits à votre attention, j'ai lieu d'espérer, monsieur, que la conduite du collecteur de la Nouvelle Orléans, dans une circonstance aussi délicate que celle dont il s'agit, vous paraîtra peu mesurée et peu convenable, et que, dans la décision qui interviendra sur la question principale, elle encourra le blâme du Gouvernement des Etats Unis.

J'ai l'honneur d'être, monsieur, avec une haute considération, votre très humble et très obéissant serviteur,

E. DE PONTOIS.

A l'honorable Monsieur JOHN FORSYTH,
Secrétaire d'Etat, &c.

[Translation.]

LEGATION OF FRANCE, *July 22, 1838.*

SIR: In addition to the information contained in my letter of the 20th instant, respecting the schooner *Lone*, I have the honor to announce to you that the collector of New Orleans, without waiting the orders which he had asked from Washington, and contrary to the verbal promise made by him to the consul of France to keep in deposit, until the arrival of these orders, the vessel and cargo in question, has taken upon himself to give entrance to the vessel, and to deliver the money and other effects composing the cargo. In submitting these facts to your attention, I have reason to hope, sir, that the conduct of the collector of New Orleans, in a circumstance so delicate as that in question, will appear to you to be heedless and improper, (*peu mesurée et peu convenable*,) and that in the decision which may be made upon the main point, it will receive the animadversion of the Government of the United States.

I have the honor to be, sir, with high consideration, your most obedient servant,

E. DE PONTOIS.

To the HON. JOHN FORSYTH,
Secretary of State.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, July 24, 1838.

SIR: I have the honor to acknowledge the receipt of your letters of the 20th and 22d instant, asking that the necessary orders might be given for the restitution of the schooner "*Lone*" to the French officer placed in command of her by the naval force blockading the ports of Mexico, and for the institution of legal process against Captain Clark, late master of that vessel, and the men who aided him in taking possession of her, and carrying her into New Orleans.

As the collector of customs at that port appears, from your last-mentioned letter, to have taken cognizance of the case, I have taken the proper steps to obtain from that officer, through the Secretary of the Treasury, the information necessary to a full understanding of the circumstances attending it.

I have the honor, sir, to be, with great consideration, your obedient servant,

J. FORSYTH.

Mr. Ed. Pontois, &c.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

New York, 16 Août, 1838.

MONSIEUR: En réponse aux deux lettres que j'ai eu l'honneur de vous adresser, sous la date des 20 et 22 du mois dernier, au sujet de la

goëlette Lone, vous avez bien voulu m'annoncer, le 24 du même mois, que vous aviez fait demander à M. le collecteur de la douane de la Nouvelle Orléans, par l'entremise du Département du Trésor, les informations propres à vous mettre au fait de toutes les circonstances de l'affaire.

Ayant lieu de croire que ces informations vous sont maintenant parvenues, je vous prie de vouloir bien me faire connaître, aussi promptement que possible, quelles mesures le Gouvernement des Etats Unis juge à propos de prendre par suite de la demande que j'ai eu l'honneur de vous adresser. Vous reconnaîtrez sans doute, monsieur, que, dans une affaire de cette nature, de plus longs retards pourraient donner lieu à de fausses et fâcheuses interprétations, et semble même une sorte d'approbation tacite donnée à des actes qui constituent à la fois une grave atteinte aux droits de la France, et une violation manifeste des principes du droit des gens.

Veillez agréer, monsieur, l'assurance de la haute considération avec laquelle j'ai l'honneur d'être

Votre très humble et très obéissant serviteur,

E. DE PONTOIS.

L'honorable Monsieur J. FORSYTH, &c.

[Translation.]

LEGATION OF FRANCE IN THE UNITED STATES,

New York, August 16, 1838.

SIR: In answer to the two letters which I had the honor to address to you on the 20th and 22d of the last month, respecting the affair of the schooner Lone, you were pleased to inform me on the 24th of the same, that you had caused proper inquiries to be made of the collector of the custom-house at New Orleans, through the medium of the Treasury Department, in order that you might become acquainted with all the circumstances of the case.

As I have reason to believe that you have by this time received the information required, I have to request that you will be so kind as to let me know as soon as possible what measures the Government of the United States will take, in consequence of the demand which I had the honor to address to you. You will doubtless see, sir, that in an affair of this kind, longer delays might occasion false or injurious interpretations; they indeed seem to be a sort of tacit approval of these acts, which are at once a serious attack upon the rights of France, and at the same time a manifest violation of the principles of national law.

Accept, sir, the assurance of the high consideration with which I have the honor to be, your most humble and obedient servant,

E. DE PONTOIS.

To the Hon. JOHN FORSYTH,

Secretary of State of the United States.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

New York, 29 Août, 1838.

MONSIEUR : M. le Consul de France à la Nouvelle Orléans m'annonce, a la date du 20 de ce mois, que la goëlette *Lone* est sur le point d'être expédiée à la douane pour le port de Matagorda, et qu'il a adressé à M. le collecteur une protestation contre le départ de ce bâtiment, en le rendant personnellement responsable des conséquences d'une pareille décision de sa part.

J'ai peine à croire qu'il en soit réellement ainsi, ce que M. le collecteur de la douane de la Nouvelle Orléans, ajoutant cette nouvelle irrégularité à celles qu'il a déjà commises dans le cours de cette affaire, ait cru pouvoir prendre sur lui de disposer d'un navire, que le fait de sa capture par un des bâtimens de l'escadre Française chargée du blocus des ports du Mexique a rendu propriété Française, sauf recours à l'autorité compétente, ce que n'a pu perdre cette qualité par un acte de violence et de perfidie, qui, aux yeux de tous les publicistes, et conformément aux décisions des tribunaux, suffit pour faire condamné une prise.

Quoiqu'il en puisse être, je vous serai infiniment obligé, monsieur, de me donner à cet égard quelques éclaircissemens, et, en même tems, de vouloir bien répondre, aussi promptement qu'il vous sera possible, à l'objet de mes lettres des 20 et 22 Juillet, et 16 de ce mois, auxquelles je crois devoir me référer.

J'ai l'honneur d'être, monsieur, avec une haute considération, votre très humble et très obéissant serviteur,

E. DE PONTOIS.

L'honorable Monsieur JOHN FORSYTH, &c.

[Translation.]

LEGATION OF FRANCE,

New York, August 29, 1838.

SIR : The French consul at New Orleans informs me, under date of the 20th instant, that the schooner *Lone* is about to be cleared at the custom-house for the port of Matagorda, and that he had addressed to the collector a protest against the departure of this vessel, rendering him personally responsible for the consequences of such a decision on his part.

I can scarcely believe this to be the case, that the collector of New Orleans should add this fresh piece of irregularity to the others already committed by him in the course of this affair, and should have thus taken upon himself the power of disposing of a vessel, which the fact of her capture by one of the ships of the French squadron charged with the blockade of the Mexican ports has rendered French property, unless otherwise determined by the competent authority, and which could not have lost that character in consequence of an act of violence and perfidy, in itself sufficient to have caused her to be condemned as a prize, agreeably to the opinions of all writers on public law, and to the decisions of courts.

Whatever may be the facts of the case, I shall be much obliged to you,

sir, to give me some information on the subject, and, at the same time, to be so kind as to answer as promptly as possible upon the points to which my letters of the 20th and 22d of July, and 16th of this month, relate, and to which I think it my duty now to refer you.

I have the honor to be, sir, with high consideration, your very humble and obedient servant,

E. DE PONTOIS.

To the Hon. JOHN FORSYTH,
Secretary of State of the United States.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, September 1, 1838.

SIR: I have the honor to acknowledge the due receipt of your four several notes regarding the case of the American schooner "Lone," of New Orleans, recently captured for an alleged breach of blockade on the Mexican coast, by a brig of war belonging to the French squadron blockading the ports of that republic, and subsequently retaken by the master, (Clark,) assisted by his mate and steward. I regret to have to state that the absence of the President from the seat of Government has precluded, and still obliges me to defer, a definitive reply to your notes above referred to. As soon as his return to the city shall allow me to submit them to him for consideration, and to receive his directions in relation to the various points they embrace, I will hasten to convey to you his views upon the whole subject.

In the mean time, I transmit to you, for your information, a letter addressed to this Department by the Secretary of the Treasury, on the 28th of July last, enclosing several papers necessary to a proper understanding of the case of the schooner "Lone;" and have the honor to be, with high consideration, your most obedient servant,

JOHN FORSYTH.

Mr. EDOUARD PONTOIS, &c.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

New York, le 12 Octobre, 1838.

MONSIEUR : Je m'étais empressé de transmettre au Gouvernement du Roi la note que vous m'avez fait l'honneur de m'adresser le 19 Juillet dernier, en lui demandant des explications sur les changemens que vous annonciez avoir été apportées aux règles précédemment suivies par l'escadre Française chargée du blocus des ports du Mexique. Je viens de recevoir de M. le Comte Molé une réponse à cet égard, et je crois devoir vous en adresser ci-joint la copie; vous y verrez, monsieur, que les mesures de rigueur dont fait mention votre note n'ont jamais été prescrites au commandant des forces navales Françaises par le Gouvernement de sa Majesté, qui, tout au contraire, vient de lui recommander de nouveau, à

l'égard des neutres, tous les ménagemens compatibles avec l'efficacité du blocus.

J'ai l'honneur d'être, monsieur, avec haute considération, votre très humble et très obéissant serviteur,

E. DE PONTOIS.

L'honorable Monsieur FORSYTH,
Secrétaire d'Etat.

PARIS, 29 Août, 1838.

J'ai lu avec un vif étonnement la lettre que Mr. Forsyth vous a adressé au sujet des prétendus changemens apportés aux règles établies pour l'exécution du blocus des ports du Mexique par nos forces navales, et d'après lesquels les navires arrivant sur les côtes du Mexique devraient être immédiatement capturés sans avertissement préalable. Je ne peux m'expliquer, que par le fait d'une bien singulière méprise, les rapports que le Gouvernement Fédéral a reçus à ce sujet du commandant de son escadre dans le Golfe, et les nouvelles répétées par les journaux des Etats Unis. Le capitaine du brick le *La Peyrouse* n'a pas pu dire au commandant d'un bâtiment de guerre Américain que la mesure violente dont il s'agit avait été substituée, par suite des ordres du Gouvernement du Roi, au système de conduite libérale et modérée dont l'adoption s'est liée, dès le principe, à l'établissement du blocus. Encore moins a-t-il pu lui communiquer une copie de ces ordres, puisqu'aucun de ce genre n'a été transmis ni à M. le capitaine de vaisseau, Bazoche, ni à M. le Baron Deffaudis; et que, tout au contraire, des instructions leur ont été récemment adressées pour recommander de nouveau, à l'égard des neutres, tous les ménagemens compatibles avec l'efficacité du blocus. Ai-je besoin d'ajouter que des dispositions comme celles dont la supposition a donné lieu à la lettre de Mr. Forsyth seraient absurdes en elles-mêmes, contraires à tous les principes du droit international, et notamment à ceux pour le triomphe desquels la France a si long-temps combattu? Du reste, les dernières dépêches de M. Bazoche ne font mention d'aucun changement de cette nature; et il est à remarquer, que ces dépêches sont du 25 Juin; c'est-à-dire, d'une date postérieure à celle où, suivant les rapports parvenus à Washington, le commandant du brick le *La Peyrouse* aurait formellement annoncé l'établissement de pareilles modifications aux règles de blocus que vous avez notifiées au Gouvernement Américain. Tout porte, donc, je le répète, à considérer ces rapports comme l'effet d'une méprise; et dans tous les cas, je n'ai pu qu'approuver entièrement la réponse que vous avez faite à la communication de Mr. Forsyth.

MOLE.

M. E. DE PONTOIS.

Pour extrait conforme.

Le Ministre de France aux Etats Unis.

E. DE PONTOIS.

Mr. Pontois to Mr. Forsyth.

[Translation.]

LEGATION OF FRANCE IN THE U. S.,

New York, October 12, 1838.

SIR: I hastened to transmit to the Government of the King the note which you did me the honor to address to me on the 19th of July last, and at the same time to request explanations relative to the alterations that you announced to have been made in the rules previously observed by the French squadron employed in the blockade of the ports of Mexico. I have just received from Count Molé an answer on the subject, and think it my duty herewith to communicate to you a copy of it. You will see in it, sir, that the rigorous measures mentioned in your note have never been prescribed to the commandant of the French naval forces by his Majesty's Government; which, on the contrary, has again recommended to him all the forbearance (*ménagement*) towards neutrals, consistent with the efficacy of the blockade.

I have the honor, &c.,

E. DE PONTOIS.

HON. MR. FORSYTH, &c.

Count Molé to Mr. Ed. Pontois.

[Translation.]

PARIS, *August 29, 1838.*

* * * * *

I have read with lively surprise the letter addressed to you by Mr. Forsyth on the subject of alleged alterations of the rules established for the execution of the blockade of the ports of Mexico by our naval forces, and according to which vessels arriving on the Mexican coasts were to be immediately captured without previous notice. I cannot account (except by attributing them to a very singular mistake) for the report which the Federal Government has received on this subject from the commander of its squadron in the Gulf, and the news repeated by the journals of the United States. The captain of the brig "*La Peyrouse*" could not have told the commandant of an American vessel of war that the violent measure in question had been substituted in consequence of orders from the King's Government, for the liberal and moderate regulations, (*système de conduite*,) the adoption of which had, from the beginning, been connected with the establishment of the blockade. Still less could he have communicated a copy of these orders, since nothing of this kind has been transmitted either to the captain, Bazoche, or to the Baron Deffaudis; on the contrary, instructions have been recently addressed to them, again recommending towards neutrals all the forbearance (*ménagemens*) compatible with the efficacy of the blockade. Need I add, that orders like those of which the supposition has given occasion for Mr. Forsyth's letter, would be absurd in themselves, contrary to all the principles of international law, and especially to those for the success of which France has so long contended. The last despatches from Mr. Bazoche, moreover, make men-

tion of no change of this nature; and it is to be remarked, that these despatches are of the 25th of June; that is to say, of a date posterior to that on which, according to the reports received at Washington, the commandant of the brig *La Peyrouse* should have formally announced the establishment of such modifications of the rules of blockade that you had notified to the American Government. Every thing, then, I repeat it, concurs to cause these reports to be considered as the consequence of a mistake; and, in any event, I cannot but fully approve the reply you have made to Mr. Forsyth's communication.

MOLE.

Mr. E. DE PONTOIS.

*Acting Secretary of State to M. Pontois.*DEPARTMENT OF STATE,
Washington, October 19, 1838.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, in answer to that which was addressed to you on the 19th of July last, by the Secretary of State, and enclosing the copy of a communication from Count Molé; from which it appears that the reports which had reached this Department, of the intention, on the part of your Government, to alter the rules originally prescribed for the blockade of the Mexican ports by the French naval forces, are unfounded, and must have been the result of misunderstanding. The President, to whom your note and its enclosure have been communicated, directs me to state to you that he derives satisfaction from the assurances conveyed by those papers that the rules above referred to have undergone no alteration.

Your note of the 22d of July having likewise been laid before the President, he has been led to suppose, from a passage it contains, that you have given to a part of the note of the Secretary of State of the 19th July an interpretation not warranted by its language. The error into which you appear to have fallen, it becomes my duty, under instructions, to call to your notice. The Secretary of State has said nothing to justify the supposition of an intention, on the part of this Government, to attribute to that of France a design to lay snares for the commerce of this or any other country. The purpose of this communication is not, therefore, to disavow such an intention, but simply again to direct your attention to the Secretary's note, under a belief that a reconsideration of its contents will suffice to remove the erroneous impression it seems to have created on your own mind, and to enable you to correct any misapprehension which the circumstance might have produced on the part of your Government.

I embrace this opportunity, sir, to offer you the renewed assurance of my most distinguished consideration.

A. VAIL,
Acting Secretary of State.

Mr. EDWARD PONTOIS, &c.

Acting Secretary of State to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, October 19, 1838.

SIR: By a note from the Secretary of State dated the 1st of September last, you were informed of the receipt at this Department of your several communications in relation to the case of the schooner "Lone" of New Orleans, and of the Secretary's intention, immediately on the return of the President to the seat of Government, to submit them for his consideration, and for his directions as to the definitive answer to be given upon the various points therein embraced. Those papers having accordingly been, without loss of time, laid before the President, have by him been considered with all the attention which the importance of the case demanded; and it is by his direction that I have the honor to communicate to you the result of his deliberations.

The document enclosed in your communication of the 20th of July, states, in substance, that the commander of the French brig of war the "Laurier" having seized the American schooner "Lone," Captain Clark, at the mouth of the Rio Bravo del Norte, for a violation of the blockade of the Mexican ports by the naval forces of France, had given her in charge to an officer, with directions to take her to Vera Cruz; and that, on the night of the 3d of July, Captain Clark, who had been permitted to remain on board his vessel to take her to the United States in case of her not being considered a prize by the commander of the French squadron in the Mexican Gulf, succeeded in retaking her and carrying her into New Orleans. And in your note of the 22d July, you add, that the collector of New Orleans had, without writing for orders from Washington, admitted the vessel to entry, and given up the money and other articles composing her cargo. Construing those acts into an infraction of the rights of France and a violation of the principles of the law of nations, you ask, in the name of your Government, as reparation of these alleged wrongs, the restitution of the vessel and cargo to the officer to whom they were intrusted by the French commander; the institution of legal proceedings against Captain Clark, and the persons who assisted him in rescuing his vessel; and the censure of the conduct of the collector of New Orleans by the Government of the United States.

The great and cordial desire entertained by the President that all acts tending to impair or embarrass the friendly relations now so happily subsisting between the United States and France, and which he is most anxious to preserve and further to extend; and his entire confidence in the power and disposition of the French prize-courts ultimately to do ample justice in cases like that under consideration, have made it to him a cause of sincere regret that Captain Clark should have taken the course which forms the ground of your representation. The occurrences referred to being of a peculiar character, and the demands you have founded upon them involving at once important principles of national law, and questions equally important touching the relative powers and duties of the separate departments of this Government, the President has felt it his duty to refer those branches of the subject, for his opinion thereon, to its law officer, the Attorney General of the United States, by whom it has been maturely considered.

The case is found to be one of entire novelty. It never has occurred that the public authorities of a foreign country have called upon this Government to deliver up property in possession of a citizen of the United States, and claimed as his own, upon the allegation, as in the present instance, of forfeiture for a breach of blockade, before adjudication or condemnation by a competent authority; nor has it occurred that a demand has been made of its interposition to restore property rescued from captors, by reason of a failure on their part to secure their possession of it.

The writers on international law have not enumerated blockade as one of the peaceable remedies to which an injured nation might resort, but have classed it among the usual means of direct hostility. No principle, then, strictly applicable to the present case, having been laid down by them, it seems reasonable, in the absence of all other rules, to adopt, in reference to it, those which relate to ordinary blockades in time of war.

By the well-settled principles of national law, it is made the duty of the captor to place an adequate force on board of the captured vessel; and if, from mistaken reliance upon the sufficiency of that force, or from misplaced confidence, he fails in that object, the omission is considered to be at his own peril. Assuming this to be the rule of law, it is not conceived how the circumstance can be regarded as a ground for asking the desired interposition. If it be admitted that the entrance of the vessel into the port of Matamoras constituted, under the law of nations, such a violation of the blockade as to justify the capture; or that the rescue was, by the same law, an additional and lawful cause of condemnation; still, the offence thus committed cannot travel onwards with the vessel beyond the termination of the return voyage. If captured or recaptured at any stage of that voyage, she is taken *in delicto*, and liable to be condemned; but if (as in the present case) she terminates it in safety, that liability is viewed as having ended.

It appears to be equally well settled, that capture, alone, does not transfer any right of property in the vessel or cargo to the captors; the title remaining unchanged until a regular sentence of condemnation has been pronounced by some court of competent jurisdiction.

It is, therefore, hoped that your Government will be satisfied that, under the circumstances of the case, and the principles of international law applicable to it, no claim for restitution of the property can be sustained.

The points involved, when considered with reference to the powers and functions of the different branches of this Government, are, besides, within the cognizance of the judicial department, and tribunals are instituted in which they may be fairly investigated. To these tribunals exclusively belongs the right of deciding between different claimants who may choose to litigate their rights before them. The Executive may, it is true, order property to be restored to the rightful *undisputed* owner, in cases where the *United States alone* have, under their revenue laws, put in a claim for forfeiture; but it is not held to be within his constitutional power to take from the possession of an individual property of which he once was admitted to be the rightful owner, to which he still lays claim, and his title to which has not been divested by the judgment of a court.

Viewing the subject in this light, the President, even if his impressions as to the strict rights of the parties were different from those stated above, could not, without exceeding his constitutional authority, comply with

your request for the surrender of the schooner "Lone" and her cargo. He would have experienced more regret at finding this conclusion forced upon him, were it not for the belief he entertains that there still are adequate means accessible to the parties interested of having ample justice done in the matter. The admiralty courts of the United States are open for the investigation of all such cases; their proceedings, based upon established principles of international law, afford the best (perhaps the only) means of ascertaining beyond doubt the merits of the respective pretensions of adverse parties, and of awarding justice commensurate with their rights. Should it be deemed advisable, in the instance under consideration, to apply for redress at the source above indicated, the President will make it the duty of the proper officers of this Government to afford every facility in their power to bring the case before the competent judicial tribunal, and to ensure a speedy decision upon its merits.

With regard to the second branch of your demand—that is, the institution of legal proceedings against Captain Clark and the persons associated with him in the act of rescuing his vessel: as no charges appear against them rendering them liable to criminal prosecution under the laws of the United States, it is not perceived in what manner they are amenable to legal process, except incidentally, and in connexion with such as might be instituted (as suggested above) for the recovery of the property.

It remains only for me to notice that part of your representation in which you ask that the collector of New Orleans be censured for his agency in admitting the vessel to entry, and in giving her up to the owners, with the money and other articles composing her cargo. With the note which was addressed to you on the 1st of September by the Secretary of State, you were put in possession of copies of letters from the collector to the Secretary of the Treasury, and to the French consul at New Orleans, detailing the particulars of his agency, and setting forth the motives by which he had been induced to assume it. It appears from those papers that the officer referred to did not determine upon the course he thought it his duty to pursue, until after he had taken advice of the district attorney of the United States; by whom it was held, that, in the discharge of his duties, (which are of a purely ministerial character,) the collector could not, without exceeding the limits of his authority, have refused to admit the vessel to entry; and that, in delaying the delivery of the permits for the landing of the cargo a sufficient time to enable the consul of France to take such legal steps as he might deem expedient for the interest of the captors, he has shown a proper regard for those interests, and every respect for the official organ of the French Government. These facts, which were not before you at the time your representations were addressed to this Department, exhibit, in the conduct of the collector in this unpleasant affair, a disposition towards a mild and considerate exercise of his authority, and a conciliatory spirit, which it is the President's wish ever to perceive in the relations of officers of this Government with the representatives of foreign nations.

Finding that, in addition to the facts and considerations above stated, the course pursued by the collector, after being advised by the district attorney, is fully sustained by the opinion of the Attorney General of the United States, the President cannot but feel convinced that, when made aware of the circumstance, you will agree with him in thinking that the

officer referred to has done nothing to render himself obnoxious to the censure of his Government.

I avail myself of this opportunity to offer you the renewed assurance of my very distinguished consideration.

A. VAIL,
Acting Secretary of State.

Monsieur ED. PONTOIS, &c.

Mr. Pontois to Mr. Vail.

LÉGATION DE FRANCE AUX ETATS UNIS,
Washington, le 21 Octobre, 1838.

MONSIEUR: J'ai l'honneur de vous accuser réception de votre note, en date d'hier, relative à l'affaire de la goëlette *Lone*, que ferait l'objet de mes communications des 20 et 22 Juillet, 16 et 29 Août derniers. Les conclusions en sont si éloignées de ce que je me croyais en droit d'attendre de l'esprit d'équité qui distingue le Gouvernement des Etats Unis, aussi bien que des dispositions amicales du Président envers la France, qu'elles sembleraient de nature à m'interdire, pour le moment, toute discussion ultérieure, et ne me laissent d'autre alternative que d'en référer immédiatement à mon Gouvernement, et attendre ses ordres. Néanmoins, par un motif que vous ne pouvez, monsieur, manquer d'apprécier, je crois devoir vous soumettre quelques observations sur divers points de votre note, en les recommandant à l'attention de votre Gouvernement.

La première s'appliquera au paragraphe concernant les devoirs des capteurs envers les capturés. Quelles seraient, je vous le demande, les conséquences d'une doctrine qui, confondant, contrairement aux principes universellement reconnus du droit des gens et aux décisions de vos propres cours d'amirauté, (ci-joint un extrait de Robinson's Admiralty Reports,) la qualité de *neutres* avec celle d'ennemis, impose aux capteurs l'obligation de prendre, à l'égard des premiers, les mêmes précautions qu'envers les seconds? Ce serait de substituer pour les citoyens Américains aux ménagemens, aux égards, à la condescendance dont ils ont été constamment l'objet de la part des commandans des bâtimens Français chargés de l'exécution du blocus des ports du Mexique, toutes les rigueurs de l'état de guerre; ce serait d'autoriser le capteur, dans un cas semblable à celui dont il s'agit, non seulement à resuter au capitaine capturé les facilités et faveurs qui ont été accordées au Monsieur Clark, à sa demande expresse, et dont il a si indignement abusé, mais même de les retenir, lui et son équipage, dans un cachôt.

Je vous prierai, en second lieu, de remarquer, monsieur, qu'en proposant, comme seul moyen de redressement, le recours aux tribunaux d'amirauté des Etats Unis, votre note semble avoir perdu de vue que mes réclamations embrassent deux questions, d'une nature fort distincte, quoique liées l'une à l'autre: la question de *propriété*, et la question de *réparation*. Or, en admettant que le mode indiqué put être de quelque efficacité pour la solution de la première question, il serait évidemment sans effet pour la solution de la seconde. Cette seconde question, de beaucoup la plus importante et la plus grave, c'est au Gouvernement Fédéral,

gardien naturel du maintien des rapports internationaux et des principes sur lesquels ils reposent, qu'appartient seul le droit, et je dirai même le devoir, de la décider. Aussi c'est de lui seul que le Gouvernement du Roi peut et doit attendre la réparation d'un acte de violence et de déloyauté, commis par un citoyen des Etats Unis, au mépris du droit des gens, et en violation des droits incontestables de la France et de l'honneur de son pavillon.

Je ne terminerai pas, monsieur, ces réflexions, sans vous exprimer le sentiment de pénible surprise avec lequel j'ai remarqué le silence absolu que garde votre Gouvernement sur la moralité de la conduite du Sr. Clark; ne trouvant pas même un mot de désapprobation ou de blâme pour un acte que l'opinion publique a justement flétri, et que la presse de votre pays elle-même (à l'exception, peut-être, d'une ou deux gazettes) a frappé d'une unanime réprobation.

J'ai l'honneur d'être, monsieur, avec une considération très distinguée, votre très humble et très obéissant serviteur,

E. DE PONTOIS.

Monsieur A. VAIL, &c.

[With Mr. Pontois's note of October 21, 1838.]

"If a neutral master endeavors to rescue, by force, the captured property, it shall be condemned; because the captain is not bound, as against an *enemy*, to keep military possession, or justified in holding the neutral master and crew as *prisoners*: on the contrary, he is to rely upon the *duty of neutrals* to submit, and to hope restitution and compensation from a court of prize; and, if this duty be violated by the neutral master and crew, confiscation is the result."—*Robinson's Admiralty Reports*, vol. 3, p. 278.

Mr. Pontois to Mr. Vail, acting Secretary of State.

[Translation.]

LEGATION OF FRANCE TO THE UNITED STATES,

Washington, October 21, 1838.

SIR: I have the honor to acknowledge the receipt of your note, dated yesterday, relative to the affair of the schooner "Lone," which was the subject of my communications of the 20th and 22d of July, and the 16th and 29th of August last. The conclusions set forth in that note are so much at variance with what I conceived that I had the right to expect from the spirit of justice which distinguishes the Government of the United States, as well as from the friendly disposition of the President towards France, that they seem calculated to inhibit, for the present, all farther discussion on my part, and to leave me no other alternative than that of referring the case immediately to my Government, and awaiting its orders. Notwithstanding this, from motives which you, sir, will not fail to appreciate, I think it proper to submit to you some observations on various parts of your note; recommending them, at the same time, to the attention of your Government.

My first remark applies to the paragraph in your letter respecting the duty of captors towards the captured. Upon this point, let me ask you, sir, what would be the consequences of a doctrine or system, which, contrary to the universally recognised principles of national law, and the decisions of your own courts of admiralty, (see the extract from Robinson's Admiralty Reports, hereunto annexed,) should confound the characters of *neutrals* and *enemies*, and impose upon the captors the same precautions with regard to the former, as with regard to the latter? Were this done, American citizens would, in place of receiving those attentions and acts of kindness and condescension which have been uniformly bestowed on them by the commanders of the French ships charged with the execution of the blockade of the Mexican ports, be subjected to all the rigors of a state of war. The captor would, under circumstances similar to those of the case in question, be authorized not only to refuse to the captured master the facilities and favors which were allowed to Mr. Clark, at his express request, and which he has abused in so improper a manner, but even to keep him and his crew in a prison.

In the next place, I beg you, sir, to observe that, by proposing, as the only means of obtaining redress, recourse to the admiralty courts of the United States, you seem to have lost sight of the circumstance that my complaints embrace two questions, very distinct in their natures, though intimately connected with each other, to wit: the question of *propriety*, and the question of *reparation*. Now, admitting that the means proposed by you may have some effect in determining upon the first question, it will be evidently of no avail with regard to the second. This second question, by far the most important and most serious, the Federal Government, as the natural guardian of international relations, and of the principles upon which they rest, has the sole right of determining; I may say, indeed, that it is the duty of that Government to determine it. It is, likewise, from the Federal Government alone, that the King's Government can, and should, expect redress for an act of violence and treachery (*déloyauté*—want of good faith) committed by a citizen of the United States, in contempt of the laws of nations, and in violation of the incontestable rights of France, and of the honor of her flag.

I will not conclude these reflections, sir, without expressing to you the sentiment of pain and surprise with which I have remarked the absolute silence maintained by your Government with respect to the morality of Captain Clark's conduct; not one word of disapprobation or of blame, on account of an act which public opinion has justly reprov'd, and which the press of your own country even (with the exception, perhaps, of one or two newspapers) has unanimously condemned, having escaped from it.

I have the honor to be, sir, with very distinguished consideration, your most humble and obedient servant,

E. DE PONTOIS.

To Mr. A. VAIL,

Acting Secretary of State, &c.

"If a neutral master endeavors to rescue, by force, the captured property, it shall be condemned; because the captain is not bound, as against an *enemy*, to keep military possession, or justified in holding the neutral master and crew as *prisoners*: on the contrary, he is to rely upon the *duty*

of neutrals to submit, and to hope restitution and compensation from a court of prize; and, if this duty be violated by the neutral master and crew, confiscation is the result."—*Robinson's Admiralty Reports*, vol. 3, p. 278.

Acting Secretary of State to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, October 23, 1838.

SIR: I have had the honor to receive your note of the 21st instant, in answer to that which I addressed to you on the 19th, respecting the case of the schooner "Lone." The President, to whom it has been communicated, sees with deep regret that the views which you have taken of the conclusions it sets forth are not such as you thought you had a right to expect from the spirit of justice which characterizes the Government of the United States, and from the friendly dispositions which the President entertains towards France, of which conviction he is happy to perceive that you are duly sensible. Conscious that this feeling is reciprocated by France, he cannot but hope that, when fully placed before your Government, the motives which led to the conclusions referred to will be viewed in a more favorable light than that in which they seem to have presented themselves to your mind. The particular points to which you have, in a spirit that is fully appreciated, requested that the attention of this Government should be called, have been submitted to the President, and I am instructed to make upon them the following observations.

You have misapprehended my views in that paragraph in my note in which I speak of the duties of captors towards the captured. The principles set forth in it, when rightly understood, cannot lead to the inference which you draw from them. They simply lay down the doctrine, that, in the absence of rules in relation to blockades in time of peace, those applicable to blockades in time of war are the only ones according to which the case of the "Lone" is to be considered. Whether seized in consequence of the one or the other description of blockade, the duties of the captors are the same, both with reference to the captured vessel, which they are bound so to secure as to ensure their continued possession of it; and to her crew, who are to be treated with all the humanity and kindness which are consistent with the security of the prize, and which, it is gratifying to perceive from your note, have been extended to citizens of the United States detained by the naval forces of France. It would be to the President a cause of sincere regret if any thing connected with the case under consideration should lead to a change in the conduct of the officers commanding those forces towards American citizens falling into their hands, of which the United States would have just cause to complain.

By the judicial decision cited by you from Robinson's Admiralty Reports, which you have, through inadvertence, described as one made by an American court of admiralty, it is held that the rescue of a vessel seized as lawful prize is, of itself, after recapture, cause of condemnation, without reference to the original ground of seizure. On referring to my note, you will find that this principle is in no degree controverted; but it is urged that, assuming such to be the rule of law, still, if the captured vessel makes good her escape, and enters the ports of her own country, however

blameable the conduct of the officers or crew in making the rescue, the vessel is not on that account liable to re-seizure, nor does it furnish an adequate ground in the captors to demand of the Government her restoration.

If the President has found himself unable, under the circumstances of the case, to manifest his disapprobation of the conduct of the master of the "Lone," in the manner requested by you, it is because he has found nothing in the existing laws of the country which rendered him liable to any punishment in the power of the Executive to inflict, nor in the constitution of the judicial branch of the Government any legal means of bringing his case under their investigation, in any other manner than that which I pointed out to you. It would be a source of pain to the President, if he could imagine the existence of a moment's doubt on the part of your Government as to his decided disapprobation of an act on the part of an American citizen which is universally condemned by the law of nations, and which, as presented by your note, involved so great a departure from good faith; and of his sincere regret at the occurrence, of which you have been already assured by my note of the 19th instant. That sentiment was not more formally expressed by me, as well on account of the relation in which the commander of the "Lone" stood towards the Government, as of the belief that no doubt of its existence could be entertained.

The collector of the port of New Orleans, whose conduct is also made the subject of complaint in your note, holds a public office, and one at the pleasure of the President. He is, therefore, within the reach of Executive authority for any acts of oppression or want of respect to the citizens or authorities of a friendly Government. A more detailed view of his conduct is taken in my note, and also of the reasons upon which the President's conclusion was founded. The master of the "Lone" is not in the service of the United States, and, like any other citizen, can only be reached through the judicial tribunals for a violation of law. It was, therefore, deemed sufficient, in his case, to state, in connexion with an expression of the President's sincere regret at his conduct, the reasons why, on the facts heretofore presented, a criminal prosecution cannot be instituted against him. You may, however, assure your Government, that if it shall hereafter appear that the conduct of Captain Clark, in the matter referred to, has been such as to render him liable to punishment by the laws of the United States, the proper instructions for the institution of legal proceedings will be forthwith given.

I avail myself of the occasion to renew to you the assurance of my distinguished consideration.

A. VAIL, *Acting Secretary.*

MR. EDWARD PONTOIS, &c.

Acting Secretary of State to Mr. Pontois.

DEPARTMENT OF STATE,
Washington, October 26, 1838.

SIR: I have the honor to communicate to you, by order of the President, a copy of instructions this day forwarded to the attorney of the

United States for the district of Louisiana, in relation to the case of the schooner "Lone;" and embrace the opportunity to offer you renewed assurances of my most distinguished consideration.

A. VAIL, *Acting Secretary.*

Mr. ED. PONTOIS, &c.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, January 2, 1839.

SIR: The copy of the regulations adopted by your Government in the blockade ordered against Mexico, communicated with your official letter of the 3d of May last, contains this sentence :

"L'entrée et la sortie des ports de Vera Cruz et de Tampico resteront entièrement libres pour les paque-bots de correspondance, *militaires, et non-commerçants.*" It was with great surprise, therefore, in which I am sure you will participate, that the Department has learned that Admiral Baudin denies to the military packet-boats of the United States the right of admission into the ports of Mexico, being apparently ignorant of a rule thus formally announced to the American Government. The fact, however, cannot be doubted, as you will perceive by a copy of Admiral Baudin's letter to Captain Gardner, commander of the United States ship of war the *Consort*, herewith enclosed. By the President's direction, I have the honor to transmit it to you, in the confident hope that, by a communication with the admiral, you will have it in your power to produce, at the earliest possible time, conformity of the acts of the naval commanders with the orders of the King's Government, and thereby prevent any attempt on his part to enforce the extraordinary and unjust distinction, which the admiral supposes to have been made by his Government, between Powers equally friendly to France, and equally interested in the preservation of a justifiable intercourse with Mexico.

I avail myself of this occasion to renew to you the assurances of the distinguished consideration with which I have the honor to be,

Your most obedient servant,

J. FORSYTH.

Mr. EDOUARD PONTOIS, &c.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,

Washington, le 4 Janvier, 1839.

MONSIEUR: Je vois par la communication que vous m'avez fait l'honneur de m'adresser le 2 de ce mois, que M. le Contre-Amiral Baudin ne s'est pas cru autorisé à faire jouir le paque-bot des Etats Unis "*Consort*" de la faculté, accordée aux paque-bots de la Grande Bretagne, d'entrer à la Vera Cruz, pendant la durée du blocus de ce port par les forces navales Françaises.

Il est de fait, monsieur, ainsi que l'annonça M. le Contre-Amiral Baudin au Capitaine Gardner, que c'est en vertu d'arrangemens particuliers antérieurement conclus entre les deux Gouvernemens, et conformément aux stipulations d'une convention postale, que la faculté dont il s'agit a été garantie aux paque-bots Anglais. Il est également certain que le paragraphe cité dans votre lettre, de la notification que j'ai eu l'honneur de vous adresser le 3 Mai, n'a eu en vue que les paque-bots de la Grande Bretagne, attendu que cette Puissance était la seule, à l'époque de la déclaration du blocus, qui entretenait des communications avec le Mexique, au moyen de *paque-bots de correspondance, militaires, et non-commerçans*. Il n'est donc pas étonnant que le commandant des forces navales Françaises ait hésité, surtout au moment de commencer les opérations militaires, à accorder aux paque-bots des Etats Unis un privilège que ne leur était pas explicitement réservé par la teneur de la notification, et dont ses instructions ne pouvaient même pas prévoir qu'ils chercheraient à faire usage.

Convaincu, néanmoins, comme je le suis, que l'intention du loi est de traiter, en toute circonstance, les Etats Unis aussi favorablement qu'aucune autre nation que ce soit, je vais, monsieur, m'empresser d'écrire à M. le Contre-Amiral Baudin, pour l'engager à révoquer dès à présent, et à en référer au Gouvernement de sa Majesté, la décision prise par lui à l'égard des paque-bots Américains. L'existence de cette difficulté, qui, du reste, a été adoucie, autant que possible, dans ses effets, par les bons procédés de l'amiral Français, et n'aura été, sans doute, que d'une courte durée, me fait regretter de n'avoir pas été en mesure de la prévenir, comme j'aurais certainement cherché à le faire, si j'eusse reçu dans le tems communication de la détermination prise par votre Gouvernement d'établir des paque-bots militaires entre les Etats Unis et la Vera Cruz.

J'ai l'honneur d'être, monsieur, avec une très haute considération, votre très humble et obéissant serviteur,

E. DE PONTOIS.

L'honorable Monsieur J. FORSYTH, &c.

[Translation.]

WASHINGTON, January 4, 1839.

SIR : I see from the communication which you did me the honor to make to me on the 2d instant, that Rear-Admiral Baudin has not considered himself authorized to extend to the United States packet Consort the right granted to the packets of Great Britain, of entering Vera Cruz during the blockade of that port by the naval forces of France.

It is true, sir, as Admiral Baudin informed Captain Gardner, that the power in question has been guaranteed to the British packets by virtue of a special arrangement previously made between the two Governments, conformably with the stipulations of a convention with regard to mails, (*convention postale*.) It is equally certain that the paragraph cited in your letter, of the notification which I had the honor to address to you on the 3d of May, applied only to the packets of Great Britain, inasmuch as that Power was the only one, at the time of the declaration of the blockade, which held communications with Mexico by means of military and non-commercial packets for correspondence. It is therefore not surprising that

the commander of the naval forces of France should have hesitated, especially at the moment when he was beginning military operations, to grant to the packets of the United States a privilege not explicitly reserved to them by the tenor of the notification, and of which it could not have been foreseen, when his instructions were drawn up, that they would wish to avail themselves.

Being, nevertheless, convinced, as I am, that it is the intention of the King's Government to treat the United States, in all respects, (*en toute circonstance*,) as favorably as any other nation whatsoever, I will, without any delay, sir, write to Admiral Baudin requesting him to recall, for the present, the decision respecting American packets, with the understanding that the matter shall be referred to his Majesty's Government. The existence of this difficulty, which has, however, been lessened as much as possible in its effects by the kind conduct of the French admiral, and which, doubtless, would only last a short time, causes me to regret that I had not been able to prevent it, as I should have certainly endeavored to do, had I received in time information of the intention of your Government to establish military packets between the United States and Vera Cruz.

I have the honor to be, &c.

E. DE PONTOIS.

HON. JOHN FORSYTH,
Secretary of State.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, January 7, 1839.

SIR: I have the honor to transmit to you, enclosed, the copy of a letter just received at this Department from the president of the Chamber of Commerce of the city of New York. Not having more information on the subject of the inquiries contained in it than the Chamber of Commerce, I request that you will, if in your power, enable me to answer them, by stating to me the precise state of the blockade of the ports of Mexico by the naval forces of France.

I am, sir, with high consideration, your obedient servant,

JOHN FORSYTH.

MR. EDOUARD PONTOIS, &c.

NEW YORK, January 5, 1839.

SIR: The Chamber of Commerce of the city of New York take the liberty of asking information from you as to the present state of the Mexican ports in the gulf of Mexico, as regards the French blockade.

The newspapers contain a notice from the admiral of the French squadron, by which the blockade of Vera Cruz appears to be raised, but is silent as to the other Mexican ports in the Gulf. It would be of great importance to the commerce of the United States to be informed, with the least possible delay, whether the latter are now open; and whether the blockade of the port of Vera Cruz has been permanently, or only temporarily and contingently raised.

The heavy losses already sustained by American merchants from the French blockade of the ports of Mexico, instituted without previous notice, and applying to vessels which sailed from the United States before a knowledge of its existence, gives greater importance to the request of the chamber for more precise information in the premises.

We have the honor to be, with great respect, sir, your most obedient servants,

ROBERT LENOX,
President of the Chamber of Commerce.
EDWARD A. B. GRAVES,
Secretary.

HON. JOHN FORSYTH,
Secretary of State of the United States.

Mr. Pontois to Mr. Forsyth.

LÉGATION DE FRANCE AUX ETATS UNIS,
Washington, le 9 Janvier, 1839.

MONSIEUR : Je regrette de ne pouvoir vous fournir les informations que vous m'avez fait l'honneur de me demander par votre lettre du 7 de ce mois, sur l'état actuel de blocus des ports du Mexique par les forces navales Françaises. Je ne possède à cet égard d'autres renseignemens que ceux qui m'ont été donnés ici par le chef d'état-major de l'Amiral Baudin, et qui sont exactement les mêmes que ceux que contiennent les journaux Américains sur la prise du fort de *St. Jean d'Ulloa*, et la capitulation qui en a été la suite.

J'ai l'honneur d'être, monsieur, avec une très haute considération, votre très humble et très obéissant serviteur,

E. DE PONTOIS.

L'Honorable Monsieur FORSYTH,
Secrétaire d'Etat, &c.

[Translation.]

LEGATION OF FRANCE IN THE UNITED STATES,
Washington, January 9, 1839.

SIR: I regret that I am unable to afford you the information which you honored me by requesting in your note of the 7th instant, as to the actual state of the blockade of the Mexican ports by the French naval forces. I have no other accounts upon the subject than those given to me by Admiral Baudin's *chef d'état-major*, (chief of the staff,) which are precisely the same with those contained in the American newspapers respecting the capture of the fortress of San Juan de Ulloa, and the capitulation which was the consequence of it.

I have the honor to be, sir, with great consideration, your most humble and obedient servant,

ED. PONTOIS.

The Hon. JOHN FORSYTH,
Secretary of State.

Mr. Forsyth to Mr. Pontois.

DEPARTMENT OF STATE,

Washington, January 9, 1839.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, and to express the satisfaction of the President with your determination to invite Rear-Admiral Baudin to rescind his decision respecting the admission of American mail-packets into the ports of Mexico, until the subject can be referred to his Majesty's Government.

The known impartiality of the French Government, the friendly sentiments always believed to be entertained for the United States by his Majesty the King of the French, no less than a proper confidence in the justice of his Government, would not permit the Department to doubt that the course you recommend to Admiral Baudin will have been expected from him by the Government of France, even were the restricted construction given by you to the clause in the notification quoted in my letter of the 2d instant admitted to be correct. This, however, the Department cannot allow you to suppose. The expressions of that notification are general, and no indication is given by it, or by any other part of the communication from which it was extracted, that it was to be restricted by a reference to the actual state of the intercourse then carried on with Mexico by military packet-boats; nor was there reason to apprehend that the terms on which the blockade was to be enforced had been the result of previous arrangement with any other foreign Power; an arrangement, the benefits of which could have been secured by those only who were consulted by the Government of his Majesty the King of France. Under the conviction that the regulations established were exclusively made by France, without reference to the interests or wishes of any other Power, and were to be universal in their application, the propriety of giving notice to your legation of the intention of this Government to establish a line of military packets between the United States and Mexico, during the continuance of the blockade, never occurred to this Department. Instructions, however, were issued from the Navy Department to the commanders of those packets, to communicate with the French admiral commanding, and give notice of the character of their vessel before attempting to enter.

Anticipating, as you do, that, under any view of the question, no further difficulty will arise, I seize the occasion to renew to you assurances of the very distinguished consideration with which I have the honor to be your most obedient servant,

JOHN FORSYTH.

Mr. EDOUARD PONTOIS, &c.

Mr. Anderson to Mr. Forsyth.

LEGATION OF THE UNITED STATES,

Paris, July 3, 1838.

SIR: Enclosed are copies of two letters received from the French Minister of Foreign Affairs, relative to the blockade of the Mexican and Argentine ports. The letter of the 31st May, alluded to in the subsequent

letter, appears not to have been sent to this office. A copy of it was not obtained until yesterday.

I am, sir, very respectfully, your obedient servant,

CHARLES E. ANDERSON.

HON. JOHN FORSYTH, *Secretary of State.*

[Enclosed in Mr. Anderson's of July 3.]

PARIS, *le 16 Juin, 1838.*

MONSIEUR LE GÉNÉRAL: Le consul du Roi à Buenos Ayres, ayant épuisé sans succès les voies de la négociation pour obtenir réparation des graves infractions du droit des gens dont le Gouvernement de cet état, s'est rendu coupable envers les Français résidant sur son territoire, le commandant des forces navales Françaises dans la mer du Sud, conformément aux instructions éventuelles qu'il avait reçues, a déclaré, le 28 Mars dernier, en état de blocus le port de Buenos Ayres, et tout le littoral appartenant à la République Argentine. Ce blocus, immédiatement notifié par lui aux agens des Puissances étrangères à Buenos Ayres, est devenu effective dès le même jour 28 Mars. Les mesures adoptées pour en assurer l'efficacité sont d'ailleurs entièrement d'accord avec les principes libéraux professés par la France en matière de droit maritime; et sous ce support, je ne puis, monsieur, que me référer à la déclaration contenu dans la lettre que j'ai eu l'honneur de vous adresser le 31 Mai, relativement au blocus des ports du Mexique.

Je vous prie de vouloir bien porter la présente communication à la connaissance du Gouvernement des Etats Unis.

J'ai l'honneur d'être, avec une haute considération, Monsieur le Général, votre très humble et très obéissant serviteur,

Monsieur le Général CASS

MOLE.

[Translation.]

PARIS, *June 16, 1838.*

SIR: The King's consul at Buenos Ayres having employed, without success, every means of negotiation in order to obtain reparation for the serious infractions of national law committed by the Government of that state against the French residing in its territory, the commander of the French naval forces in the South Sea has, conformably with the eventual instructions received by him, declared, on the 28th of March last, the port of Buenos Ayres and the whole coast of the Argentine republic to be blockaded. This blockade, which was immediately made known by him to the agents of foreign Powers residing in Buenos Ayres, took effect from the same 28th day of March. The measures adopted to ensure its efficiency are entirely in accordance with the liberal principles professed by France in matters of maritime law; and upon that head, sir, I can only refer you to the declaration contained in the letter which I had the honor to address to you, sir, on the 31st of May last, relative to the blockade of the Mexican ports.

I have to request, sir, that you will submit my present communication to the Government of the United States; and I have the honor to be, with the highest consideration, sir, your most humble and obedient servant,

To General Cass.

MOLE.

[Enclosed in Mr. Anderson's of July 5.]

PARIS, le 31 Mai, 1838.

MONSIEUR LE GÉNÉRAL: Le Gouvernement Mexicain ayant refusé de faire droit aux nombreux griefs dont le ministre plénipotentiaire du Roi au Mexique avait été chargé de lui demander réparation, le commandant des forces navales Françaises devant Vera Cruz s'est vu dans la nécessité d'adopter, ainsi qu'il y était autorisé par ses instructions, les mesures qu'exigeaient en pareil cas la dignité de la France et la justice de ses réclamations. En conséquence, tous les ports de Mexique ont été déclarés en état de blocus, et ce blocus devenu effectif pour Vera Cruz dès le 16 Avril dernier, et n'a pas dû tarder à l'être également pour les autres ports Mexicains.

En vous faisant part de ces dispositions, je m'empresse, M. le Général, d'ajouter que les ordres donnés par le Gouvernement du Roi pour en assurer l'exécution, sont conçus de manière à concilier l'exercice pratique d'un droit légitime avec les égards qui sont dûs à l'indépendance des pavillons, et avec le désir sincère de causer le moins de gêne possible à la navigation neutre.

Je vous prie de vouloir bien porter la présente notification à la connaissance du Gouvernement Fédéral.

Agréez, Monsieur le Général, l'assurance de la haute considération avec laquelle j'ai l'honneur d'être votre très humble et très obéissant serviteur,

MOLE.

Monsieur le Général Cass, &c.

[Translation.]

PARIS, May 31, 1838.

SIR: The Mexican Government having refused to do justice with regard to the numerous complaints for which the King's minister plenipotentiary in Mexico had been charged to demand reparation, the commander of the naval forces before Vera Cruz has found himself under the necessity of adopting, as he was authorized by his instructions, the measures required in such a case for the sake of the dignity of France and the justice of its claims. The ports of Mexico have in consequence been declared in a state of blockade, and this blockade, which took effect for the port of Vera Cruz from the 16th of April last, will also have been applied in the same manner to the other Mexican ports.

In communicating to you these dispositions, I hasten, sir, to add that the orders given by the King's Government to ensure their execution, are conceived in such a manner as to reconcile the practical exercise of a legitimate right with the consideration due to the independence of flags, and with the sincere desire of occasioning as little interference as possible with the freedom of navigation of neutral nations.

I have to request, sir, that you will communicate what I have here said to the Federal Government.

Accept, sir, the assurances of the high consideration with which I have the honor to be your most humble and obedient servant,

MOLE.

To General Cass.

Mr. Cass to Mr. Forsyth.

LEGATION OF THE UNITED STATES,

Paris, July 14, 1838.

SIR: Finding that the letter of the Minister of Foreign Affairs, announcing the blockade of Mexico, embraced, in its terms, as well the coast of that republic upon the Pacific as upon the Gulf of Mexico, I have asked from him an explanation, stating that, not having understood there was any French naval force to give effect to a blockade of the western coast of Mexico, I presumed the measure announced extended only to its ports upon the Gulf. I shall communicate the answer as soon as it is received.

I have the honor to be, very respectfully, your obedient servant,

LEW. CASS.

Hon. JOHN FORSYTH,

Secretary of State, Washington.

LEGATION OF THE UNITED STATES,

Paris, July 11, 1838.

SIR: Your letter of May 31st, announcing the blockade of the ports of Mexico, was received at this legation on the 2d of July; and that of June 16th, announcing the blockade of the ports of Buenos Ayres, was received on the 20th ultimo—both while I was absent for a short time from the city. They have been transmitted for the information of the American Government.

In your letter respecting the Mexican blockade, the ports of that republic upon the Pacific might be included in the general terms; but as I have not heard that there is any French naval force employed for that purpose upon the western coast of Mexico, I have been led to suppose that the notice was intended to apply only to the ports upon the Gulf of Mexico. I beg leave to ask for the necessary explanation upon this subject.

I avail myself of this occasion to assure your excellency of the very high and distinguished consideration with which I have the honor to be your excellency's very obedient and humble servant,

LEW. CASS.

His Excellency M. LE COMTE MOLÉ,

President of the Council, Minister of Foreign Affairs, &c.

Mr. Cass to Mr. Forsyth.

PARIS, August 14, 1838.

SIR: The enclosed paper is a copy of a communication from Count Molé, in answer to my letter of the 11th of July, 1838, asking an explanation with regard to the extent of the blockade of Mexico.

I am, sir, very respectfully, your obedient servant,

LEWIS CASS.

Hon. JOHN FORSYTH,

Secretary of State, Washington.

PARIS, le 8 Août, 1838.

M. LE GÉNÉRAL : Vous m'avez exprimé le désir de savoir si le blocus des ports du Mexique, que j'ai eu l'honneur de vous notifier, s'étend aux ports situés sur l'océan Pacifique.

Jusqu'à présent, ce blocus ne s'applique qu'aux ports Mexicains situés sur l'Atlantique ; mais si le Gouvernement du Roi jugeait devoir l'étendre plus tard aux ports de la côte opposée, il aurait soin de prendre toutes les mesures nécessaires pour en assurer l'efficacité de ce côté comme de l'autre, et d'en donner préalablement avis au Gouvernement Fédéral.

Agréé, monsieur, les nouvelles assurances de la haute considération avec laquelle j'ai l'honneur d'être, votre très humble et très obéissant serviteur,

MOLE.

M. le Général Cass,
Ministre des Etats Unis à Paris.

[Translation.]

PARIS, August 8, 1838.

SIR : You have expressed to me a desire to know whether the blockade of the Mexican ports, of which I have had the honor to notify you, extends to those on the Pacific.

To the present time, this blockade applies only to the Mexican ports situated on the Atlantic ; but if the King's Government should judge proper to extend it hereafter to the ports on the opposite coasts, care will be taken to do all which may be necessary for the purpose of assuring its efficiency on that side, and to notify the Federal Government of it previously.

Accept, sir, the assurances of the high esteem and consideration with which I have the honor to be your most humble and obedient servant,
MOLE.

General Cass,
Minister of the United States at Paris.

Acting Secretary of State to Mr. Cass.

DEPARTMENT OF STATE,

Washington, October 27, 1838.

SIR : On the 19th July last, the Secretary of State addressed a note to Mr. Pontois to inquire into the truth of a report which had reached this Department, of a contemplated alteration of the rules prescribed by the French Government in the conduct of the blockade of the ports of Mexico by the naval forces of France. In that paper, of which a copy is enclosed, the Secretary of State, referring to the operation of the new rules alleged to have been prescribed, says, that "if, instead of this friendly warning, they are to be subjected to immediate capture and confiscation, it cannot but be obvious to you that the assurances first given, *far from fulfilling the benevolent intentions of his Majesty's Government*, must operate as a snare to the American trader and his property."

In his answer, of which a translation is likewise enclosed, Mr. Pontois,

referring to the passage above quoted, disclaims all intentions on the part of his Government to lay snares for the commerce and property of any nation whatsoever, in terms which give countenance to the idea that the Secretary of State intended to attribute such intentions to France—a construction obviously not warranted by its language. As appears from a despatch from Count Molé, communicated by Mr. Pontois in his note of the 12th instant, that his answer to the Secretary had received the approbation of his Government, the President, before whom these papers were laid, on his return to the seat of Government, is apprehensive that Count Molé may have fallen into the same error; and directs this communication to be addressed to you, in order that you may be enabled to correct it, should you have reason to suppose that his apprehensions are well founded.

The language of Mr. Forsyth's note is so utterly unsusceptible of the interpretation given to it by Mr. Pontois, that, to set him right, it was deemed sufficient, in my communication to him of the 19th instant, to affirm, generally, but distinctly, that Mr. Forsyth's note did not justify the construction which had been put upon it, and to ask the re-perusal of it by Mr. Pontois. You will readily perceive that, far from the remotest intention of attributing to France such designs as those which are so unnecessarily disavowed by Mr. Pontois, we objected to the proposed alterations in the conduct of the blockade, precisely because they were believed calculated to defeat the intentions which we felt assured were entertained by the French Government, to establish and enforce the blockade on principles of liberality and fairness. Having had frequent occasion to express his confidence in the friendly feeling of the King towards the United States; and believing that, so far from desiring it, he sincerely regrets the injury done to the commerce of other nations by the mode of redress to which he has deemed it proper and necessary to resort; the President could not see otherwise than with regret a construction given to Mr. Forsyth's note which is so objectionable in itself, and so foreign to his intentions.

It is the President's desire that you should avail yourself of the first suitable opportunity, informally, to mention the subject in conversation to Count Molé, and endeavor to place the matter on its true grounds.

I am, sir, respectfully, your obedient servant,

A. VAIL,
Acting Secretary.

LEWIS CASS, Esq., &c.

List of papers sent.

Mr. Forsyth to Mr. Pontois, dated 19th July, 1838.—Copy.

Mr. Pontois to Mr. Forsyth, dated 22d July, 1838.—Translation.

Same to same, (with enclosure,) 12th October, 1838.—Translation.

Acting Secretary of State to Mr. Pontois, 19th October, 1838.—Copy.

Acting Secretary to Mr. Cass.

DEPARTMENT OF STATE,

Washington, October 29, 1838.

SIR: I communicate to you, by direction of the President, copies of a correspondence between this Department and the French minister, on the subject of the rescue of the schooner "Lone," of New Orleans, by her captain, after seizure by the French naval forces forming the blockade of the ports of Mexico.

I am, sir, very respectfully, your obedient servant,

A. VAIL,
Acting Secretary.

LEWIS CASS, Esq., &c..

List of papers sent.

Mr. Pontois to Mr. Forsyth, (with enclosure,) dated 20th July, 1838.—Translation.

Same to same, dated 22d July, 1838.—Translation.

Mr. Forsyth to Mr. Pontois, dated 24th July, 1838.—Copy.

Mr. Pontois to Mr. Forsyth, dated 16th August, 1838.—Translation.

Same to same, dated 29th August, 1838.—Translation.

Mr. Forsyth to Mr. Pontois, dated 1st September, 1838.—Copy.

Acting Secretary of State to same, dated 19th October, 1838.—Copy.

Mr. Pontois to the acting Secretary, dated 21st October, 1838.—Translation.

Acting Secretary to Mr. Pontois, dated 23d October, 1838.—Copy.

Same to same, (with enclosure,) dated 26th October, 1838.—Copy.

Acting Secretary to Mr. Cass.

DEPARTMENT OF STATE,

Washington, October 29, 1838.

SIR: The President sees with deep regret the continuance of the unfortunate controversy between France and Mexico; and it would afford him sincere pleasure if his agency could be employed in bringing it to a termination which would prove satisfactory to both parties. At the time the dispute began to assume its present hostile character, the relations between the United States and Mexico were of a nature which made it very difficult, if not impossible, for this Government to take any steps in furtherance of so desirable an object. Since then, however, the character of those relations has undergone a material change: negotiations entered into with a conciliatory disposition on the part of both Governments have resulted in the conclusion of a treaty by which, when it shall have been ratified, most of the matters in controversy between them are to be submitted to the arbitrament of a friendly Power; and there is reason to believe that the residue will likewise be adjusted in a friendly spirit, although this expectation has not yet approached so near its realization as to authorize the resumption, on our part, of direct diplomatic relations with

Mexico. The President, therefore, would no longer feel any delicacy in tendering his good offices to contribute in bringing about an adjustment of the difference between Mexico and France, were he not precluded from the adoption of any specific steps in the matter by the information which has reached him, that a movement to the same effect had been made, in the shape of an offer of mediation, by the Government of Great Britain; which he feels satisfied will do all in its power towards the attainment of the object in view. He has, however, instructed me to make you acquainted with his sentiments in relation to this subject; and to authorize you to express to the British Government, or in any other quarter where you may have reason to believe that the communication would be useful and acceptable, his readiness to afford his assistance in any form in which it may appear likely to prove beneficial to the parties concerned. A communication of the same import with this, is this day addressed to the minister of the United States at the British Court.

I am, sir, very respectfully, your obedient servant,

A. VAIL,

Acting Secretary of State.

LEWIS CASS, Esq., &c.

Acting Secretary to Mr. Cass.

DEPARTMENT OF STATE,

Washington, November 6, 1838.

SIR: I transmit to you, by order of the President, copies of a correspondence between this Department and the French minister, on the subject of the blockade of the Mexican ports by the naval forces of France. It originated in an inquiry on the part of this Department as to the correctness of information which had been communicated to it of a contemplated alteration of the rules according to which the blockade was to be conducted. Every intention of such an alteration was disavowed in a despatch from Count Molé, communicated by Mr. Pontois to this Department. It appears, however, by a letter from Captain Bazoche to the commander of one of our ships, the original of which is now in this Department, that the principles according to which that officer now proposes to enforce the blockade, are at variance with the rules set forth in the official notification of it to this Government. This notification contained no reservation as to the ultimate adoption of the course by which Captain Bazoche now proposes to change the character of the blockade; and, inasmuch as no official notice of such a change has been given to us, it is supposed that it has been resolved upon without the sanction of the French Government. It is the desire of the President that you should take a suitable opportunity of pointing out to Count Molé this discrepancy between his despatch to Mr. Pontois and the letter of Captain Bazoche, and of calling his attention to the inconveniences likely to result to our commerce from the adoption, without the customary official notification, of principles, with reference to this blockade, different from those first made known to this Department.

I am, sir, your obedient servant,

A. VAIL,

Acting Secretary.

LEWIS CASS, Esq., &c.

Papers sent.

Mr. Pointois to Mr. Forsyth, (with enclosure,) 3d May, 1838.—Translation.

Mr. Forsyth to Mr. Pontois, 19th July, 1838.—Copy.

Mr. Pontois to Mr. Forsyth, 12th October, 1838.—Translation.

Lieutenant Commandant Farragut to Commodore Bazoche, 27th August, 1838.—Copy.

Commodore Bazoche to Lieutenant Commandant Farragut, 28th August, 1838.—Translation.

VERA CRUZ, UNITED STATES SHIP ERIE,

August 27, 1838.

SIR : In consequence of a rumor in the United States that the vessels appearing off the coast of Mexico will be captured by the French cruisers, and not warned off, as heretofore; with an endorsement on their papers, I have been directed by my commanding officer, Commodore Dallas, to ascertain the fact, in order that our citizens may be officially notified of it. You, will, therefore, sir, confer a great favor on me by informing me if any such order has been given by you, or any other change made in the system of blockade as proclaimed by you on the 15th of April last.

I have the honor to be, with sentiments of the highest respect, your obedient servant,

D. G. FARRAGUT,
Lieutenant Commandant.

To Commodore BAZOCHE,
*Commander French Naval Forces
in the Gulf of Mexico.*

FRÉGATE HERMINIE,

Mouillage de Sacrificios, Août 28, 1838.

MONSIEUR LE CAPITAINE : En réponse à la lettre que vous m'avez adressée hier, j'ai l'honneur de vous informer qu'il n'est apporté aucun changement du blocus, mais qu'il est appliqué entièrement dans toute son acception et ses conséquences.

Les bâtimens qui se présentaient devant les ports du Golfe avant la notification, étaient renvoyés après avis; mais maintenant que cette notification a été faite à votre Gouvernement, et qu'elle est connue dans tous les ports de l'Union, il est évident que tout bâtiment qui se présenterait aurait l'intention de tromper ou forcer le blocus; dès lors il est dans le cas d'être détenu jusqu'à ce que mon Gouvernement ait prononcé.

Telles sont, monsieur le capitaine, les règles générales du blocus qui ont été adoptées.

Ainsi vous pouvez remarquer qu'il n'y a aucun changement, mais que l'application des règles devient rigoureuse depuis que votre Gouvernement a été informé officiellement de son établissement.

Recevez, monsieur le capitaine, l'expression des sentimens très distingués avec lesquelles j'ai l'honneur de vous saluer.

BAZOCHE.

Monsieur le Capitaine FARRAGUT,
Commandant la corvette des E. U. "Erie."

[Translation.]

ON BOARD THE FRIGATE HERMINIE,
At anchor off Sacrificios, August 28, 1838.

SIR: In reply to the letter which you addressed to me yesterday, I have the honor to inform you that no change has been made in the blockade, but that it is applied entirely and in its fullest acceptance and consequences.

The vessels which appeared at the entrance of the ports in the Gulf before the notification, were turned away with notice of the blockade; but now that the notification has been given to your Government, and is known in all the ports of the Union, it is clear that every vessel which should present itself would come with the intention of evading or of forcing the blockade, and thus become liable to detention until my Government shall have pronounced as to the disposition to be made of it. Such, sir, are the general rules of blockade which have been adopted.

You may remark that no change has been made, but that the application of the rules has become rigorous ever since your Government has been informed officially of the establishment of the blockade.

Accept, sir, the expression of the very distinguished sentiments with which I have the honor to salute you.

BAZOCHE,
Captain of the Iphigénie.

To Captain FARRAGUT,
Commander of the United States sloop of war Erie.

Mr. Cass to Mr. Forsyth.

LEGATION OF THE UNITED STATES,
Paris, December 15, 1838.

SIR: I have the honor to inform you that, immediately after the receipt of despatch No. 32, of 6th November, 1838, from the Department, I sought an interview with the Minister of Foreign Affairs, to bring to his knowledge the change made in the principles established by the French Government for the blockade of the Mexican ports, as announced in the letter of the 28th of August, from the commanding officer of the French naval forces in the Gulf of Mexico to the captain of the sloop of war "Erie." I found that this change had been made without any authority, and was disavowed by the Government. On my return I addressed to the minister a letter, of which a copy is enclosed; and have just received the satisfactory answer, a copy of which is herewith transmitted to you.

It is proper to add, that upon this, as upon former occasions when I have conversed with Count Molé upon the subject of this blockade, he has expressed the determination of the King's Government to relax the rigor of the recognised principles respecting blockades, as far as could be done consistently with the end they had in view, and to inflict the least practicable injury upon the commerce of other nations.

I am, sir, very respectfully, your obedient servant,

LEWIS CASS.

HON. JOHN FORSYTH,
Secretary of State.

LEGATION OF THE UNITED STATES,

Paris, December 7, 1838.

SIR: I have it in charge from my Government to represent to your excellency that the commanding officer of the United States ship *Erie* has received from the officer commanding his Majesty's blockading squadron off the coast of Mexico, under date of August 28, 1838, a letter, by which it is announced that thereafter all neutral vessels appearing off the ports of the Gulf would be presumed to come with the intention of violating the blockade, and would be seized and detained till the Government of his Majesty should pronounce their sentence, without any previous notice being given to them; thus changing, in a material degree, the mode of conducting the blockade, as originally announced to other nations.

I persuade myself, M. le Comte, that the commanding officer of the French blockading squadron has mistaken the intentions of his Majesty's Government, and that the proper remedy will be applied to restore the conduct of this blockade to the principles originally announced; and for this purpose I beg leave to ask the interposition of your excellency.

I avail myself, &c.

LEWIS CASS.

M. le Comte Molé, &c.

PARIS, le 12 Décembre, 1838.

MONSIEUR LE GÉNÉRAL: J'ai reçu la lettre que vous m'avez fait l'honneur de m'écrire le 8 de ce mois, au sujet d'une communication adressée le 28 Août au capitaine de la corvette Américaine *l'Erie* par le commandant des forces navales Françaises employées au blocus des ports du Mexique, pour lui annoncer, qu'à dater du même jour, tout navire neutre se présentant devant un de ces ports serait considéré comme cherchant à en violer le blocus, et serait en conséquence capturé, pour être retenu jusqu'à ce que le Gouvernement du Roi prononçât sur son sort.

Le Gouvernement du Roi avait prévenu le vœu que vous en exprimez, en adressant des instructions à M. le Contre-Amiral Baudin, pour que rien ne fût changé aux règles précédemment établies relativement à l'exécution du blocus des ports Mexicains, telles qu'elles ont été notifiées au Gouvernement Fédéral par le Ministre du Roi à Washington. Il n'en donne pas moins connaissance à M. le Ministre de la Marine du contenu de la lettre à laquelle j'ai l'honneur de répondre, en l'invitant à prescrire, s'il était nécessaire, de nouvelles mesures dans le sens des ordres déjà expédiés.

J'ai l'honneur d'être, avec une haute considération, Monsieur le Général, votre très humble et très obéissant serviteur,

MOLE.

Monsieur le Général Cass, &c.

[Translation.]

PARIS, *December 12, 1838.*

SIR: I have received the letter which you did me the honor to write to me on the 8th of this month, relative to a communication addressed, on the 28th of August, to the captain of the American corvette *Erie*, by the commander of the French naval forces employed in blockading the Mexican ports, for the purpose of informing him that from that day every neutral vessel appearing before those ports should be considered as seeking to violate the blockade, and should be in consequence captured, and detained until the French Government should pronounce sentence with regard to her.

The King's Government had foreseen the wish expressed by you, and made adequate provision, by addressing instructions to Admiral Baudin, to make no change in the rules previously adopted with respect to the blockade of the Mexican ports, as communicated to the Federal Government by the King's minister at Washington. The Minister of Marine has, nevertheless, been made acquainted with the contents of the letter to which I have now the honor of replying, and has been requested to prescribe any new measures which he may judge necessary, in conformity with those already determined on.

I have the honor to be, with high consideration, your most humble and obedient servant,

MOLE.

General Cass, *Envoy Extraordinary, &c.**Mr. Cass to Mr. Forsyth.*

LEGATION OF THE UNITED STATES,

Paris, December 15, 1838.

SIR: Agreeably to the instructions contained in despatch No. 29, dated October 29, 1838, from the Department of State, I embraced the first opportunity in my power to bring to the notice of Count Molé the expression in your letter to Mr. Pontois of July 19, to which that gentleman had excepted.

Count Molé, after examining the subject, expressed his entire satisfaction, and his conviction that nothing offensive was intended. When I explained to him that no fair construction of the sentence would justify an unfriendly interpretation, as it was obvious that the snare alluded to was a change introduced into the blockading principle by the commanding officer, which would enable him to capture neutral vessels, which could have no knowledge that they were violating the regulations adopted by the French Government, he acquiesced in the view; and when I added that such a measure, if carried into effect, would have been a snare, he agreed with me in opinion.

I cannot conceive how this misapprehension could have originally arisen; and how an epithet, justly characterizing the effect of a measure under certain circumstances, could have been applied to the intention of the French Government.

I am, sir, very respectfully, your obedient servant,

LEW. CASS.

Hon. JOHN FORSYTH, *Secretary of State.*

Mr. Forsyth to Mr. Woodbury.

DEPARTMENT OF STATE,

Washington, July 24, 1838.

SIR: I enclose translations of two communications received at this Department from the minister of France, asking the restitution, to the French consul at New Orleans, of the schooner "Lone," retaken by her master, Captain Clark, from the French forces blockading the ports of Mexico, and the institution of legal process against Captain Clark, and the persons who aided him in retaking this vessel and conveying her into New Orleans. I have to request that you will obtain from the collector at that port, and communicate to this Department, such a report of the circumstances of the case as may lead to a full understanding of it.

I have the honor to be, &c.,

JOHN FORSYTH.

Hon. LEVI WOODBURY,

Secretary of the Treasury.

Mr. Woodbury to Mr. Forsyth.

TREASURY DEPARTMENT, *July 28, 1838.*

SIR: I have the honor to transmit, herewith, copies of a report and accompanying papers furnished to this Department by James W. Breedlove, Esq., collector of the port of New Orleans, in the case of the schooner Lone, which vessel was recently captured by the French forces blockading the ports of Mexico, and subsequently retaken by Captain Clark, her master, to which reference is made in your communication to me of the 24th instant.

I have the honor to be, very respectfully, your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

Hon. JOHN FORSYTH,

Secretary of State, Washington.

COLLECTOR'S OFFICE,

New Orleans, July 14, 1838.

SIR: I have the honor to inform you that, on the 10th day of the present month, the American schooner Lone, of New Orleans, Clark master and owner, arrived in this port from Matamoras, with a cargo of specie and hides, worth, perhaps, about \$20,000. The master of this schooner called at this office immediately on his arrival, to report his vessel, and asked for a permit to have the specie landed and placed in bank for safe-keeping, as he considered it unsafe to allow it to remain on board his vessel during the night. At the same time Captain Clark informed me that his vessel had been captured by a French brig of war soon after leaving the Brasos bar, and a prize-master and crew of eight men placed on board his vessel. After the commander of the French brig had taken from the

Lone all her crew and passengers except Captain Clark, his mate, and steward, he ordered the prize-master to proceed with the schooner to Sacrificios, and there deliver her over to the commander of the French blockading squadron. That some three or four days after the schooner left the Brasos, he had succeeded in securing the prize-master and a part of his crew in the cabin, and the remainder in the fore-castle, by which he got possession of his schooner, and immediately made sale for this port; and that the prize-master and crew were locked up in the cabin and fore-castle, and he wished to know what should be done with them; and inquired whether he had done any thing wrong in repossessing himself of his vessel and bringing her home.

Immediately on this information being communicated to me, I issued an order for the opening of the cabin and hatches of the fore-castle of the schooner, and sent an officer with it, to set at liberty the prize-master and his crew; which order, with the officer's return made on the back, you will find herewith, as also the permit to land the specie, with the inspector's return thereto attached. When this return was made to me, I proceeded to the vessel in person, accompanied by two or three of my officers, and had the specie landed and sent to bank for safe-keeping, without meeting any opposition. The prize-master and most of his crew having previously left the vessel, Captain Clark informed me that the prize-master had taken from him his register, crew-list, bills of lading, and all other papers belonging to the vessel, and had refused to return them to him. I then consulted with the district attorney as to what course I should pursue in relation to the schooner; when it was determined that I was bound to recognise her as an American vessel, allow her to come to an entry, and permit the consignees of the cargo to make their entries and obtain their permits to receive their property. This conclusion was drawn from the fact of the vessel having arrived in this district under the command of an American citizen, and the same who had cleared at this office about four or five weeks previous for Matamoras. The French consul having previously informed me that he considered the schooner as a legal prize to the captors, and that he claimed her as such, I deemed it proper to inform him of the course which my duty, as collector of the port, required me to take; which information was given to that functionary by note of yesterday's date, a copy of which you have herewith; at the same time withholding the permits for delivery of the cargo for twenty-four hours, in order that he might have time to take such legal steps as he might deem most expedient for the interest of the original captors.

On permitting this vessel to come to an entry, I required the master to make an affidavit that the register and list of crew had been forcibly taken from him; and he now asks for a certified copy of the original register of his vessel, to be used in case he should wish to proceed on a voyage to a foreign port; which document I shall furnish him with, believing it my duty to do so.

I am induced to furnish this statement from the novelty of the case, and from a belief that the French consul has already laid the subject before the minister plenipotentiary of France near this Government.

With sentiments of high respect, &c.

J. W. BREEDLOVE, *Collector.*

HON. LEVI WOODBURY,

Secretary of the Treasury, Washington city.

COLLECTOR'S OFFICE,

New Orleans, July 13, 1838.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, on the subject of the schooner Lone and her cargo.

Before advertng to the circumstances of this case, permit me to call your attention to the character of the duties pertaining to the station which I hold, to wit, the collectorship of this district.

I am placed here as the guardian of the revenue laws of the country. I am limited by the laws creating the office which I hold, to a narrow sphere of duty. I am answerable both to my Government and to the citizens and residents of the country for the rightful and prompt discharge of all the duties which fall within my allotted sphere of action; among those duties, the most important are, the giving due entry at the office of the customs to all vessels arriving here on their fulfilling the prescribed formalities, and of affording prompt facilities to the consignees of goods for landing and taking possession of them on payment of the established duties. Such is the character of my office; but it certainly was never contemplated by the legislators who established its tenure and duties that I should pass beyond this sphere into a diplomatic one; and much less that I should assume to myself judicial powers, and become the arbiter of questions involving the law of nations. I respectfully present these views to your consideration, and trust you will receive and consider them as advanced with a feeling of the highest consideration towards yourself and the distinguished Government whom you here represent.

Permit me now to recur to the circumstances of this case. An American vessel, commanded by an American captain, who claims also to be her owner, and who, when this vessel was last within my district, was then also her owner and commander, returns to this port from the port whither she had hence departed. She is laden with a cargo consigned to various mercantile houses here, and has, as her recommendation to the hospitable protection of her country, the flag of the United States. In receiving her as such, and admitting her cargo to entry, I adopt as my guide the rule which not only seems to me the natural and reasonable one, but which accords with the general usage, to wit, of looking at the possession and ownership as it appears *in fact*. But, should I depart from this ordinary and familiar path of my official practice, to investigate all the circumstances of the voyage, which might involve the *right* of possession, I should disregard the *actual enjoyment and control* of this property, and go in quest of an *alleged right* of enjoyment and control, based upon a possession alleged to have been actual, but now evidently lost. If, moreover, I should attempt to investigate how far the circumstances of an alleged capture not only clothed the captors with a *military right* for the time being, but would ensure the acquisition of a civil and absolute right of ownership by the future adjudication of a competent tribunal of admiralty; and if, after I had pursued all these complicated investigations, I should perchance conclude to wrest this vessel and cargo from her present possessors, and to give them over to yourself or other functionaries of your Government; it does seem to me that in such a course I should assume diplomatic, judicial, and executive powers, which my commission as collector could never, in the most distant degree, have contemplated.

If the rights of the French Government have unhappily been violated

by American citizens, I feel assured that your representations at Washington would meet with that profound respect with which the communications of your country are always received there, and with all the promptness which the comity of nations dictates.

For myself, who am the depositary of the limited and narrow powers above enumerated, I feel obliged, on the ordinary exercise of those powers, to afford the usual facilities for the entry and discharge of this vessel; being fully assured that the Government of the United States will take such measures as, upon a rightful consideration of the case by her representatives and those of your country, shall be mutually found consistent with the law of nations and the principles of justice.

It remains also for you to consider how far relief, if due, may be acquired in the courts of the United States; which, certainly, whenever they have competent jurisdiction, will administer the same justice to the stranger as to the citizen.

I am, sir, &c.

J. W. BREEDLOVE, *Collector*.

MR. DAVID,
Consul of France, New Orleans.

NEW ORLEANS, *July 10, 1838.*

The surveyor will land from the schooner Lone, from Matamoras, a quantity of specie, and place the same in the vault of the Atchafalaya Bank for safe-keeping, subject to the order of the collector.

JAS. W. BREEDLOVE, *Collector*.

To the SURVEYOR
of the Port of New Orleans.

NEW ORLEANS, *July 10, 1838.*

SIR: Agreeably to your order, I went on board of the schooner Lone, Clark master, from Matamoras, for the purpose of landing the specie from on board of said schooner. The French naval officer answered me that nothing would go ashore before the French consul came on board.

When the French vice-consul came on board, I showed him that I had an order, written by the collector of the port, to land the specie, and have it brought to the Atchafalaya Bank. He answered me, that he protested against that; and did not allow such specie to be landed.

JAMES MCFARLANE, *Inspector*.

DE MARAUS,

Boarding officer, port of New Orleans.

SIR: The above statement, handed to this office by Messrs. J. McFarlane and Charles De Maraus, inspectors of the customs, is in relation to facts that occurred yesterday on board of the schooner Lone from Matamoras.

Respectfully, your obedient servant,

JOHN THIBAUT, *Deputy Surveyor*.

To the COLLECTOR
of the Port of New Orleans.

COLLECTOR'S OFFICE,

New Orleans, July 10, 1838.

Permission is hereby granted to the French naval officer and his men, now on board the American schooner Lone, Clark master, from Matamoras, to land from said schooner with any baggage they may have, being their own private property.

JAS. W. BREEDLOVE, *Collector.**NEW ORLEANS, July 10, 1838.*

When I went on board the schooner Lone, I found the French officer, and informed him that I had a permit from the collector of the port to land him, his men, and the baggage they might have with them; but he told me he was perfectly free to do it, and that he did not want to do it before he had seen the French consul.

DE MARAUS,

Boarding officer, port of New Orleans.

To the SURVEYOR of the Port.

Secretary of the Treasury to the acting Secretary of State.

TREASURY DEPARTMENT,

August 23, 1838.

SIR: The collector of New Orleans anticipated the call made upon him by this Department, at the instance of the Secretary of State, for detailed information in the case of the schooner Lone, by his letter and accompanying papers of the 14th ultimo. Copies of them were transmitted to the State Department, with mine of the 28th of the same month. He has, under date of the 9th instant, referred to that communication as containing all the information in his possession respecting the case, with the exception of Captain Clark's protest made on his arrival at New Orleans, a copy of which he has transmitted, and is herewith enclosed.

I have the honor to be, very respectfully, your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

AARON VAIL, Esq.,

Acting Secretary of State, Washington.

STATE OF LOUISIANA, }
 City of New Orleans. }

By this public act of protest, be it known, that on this twelfth day of July, eighteen hundred and thirty-eight, before me, Carlile Pollock, a notary public in and for this city of New Orleans, duly commissioned and sworn, personally came and appeared John Clark, master of the schooner called the Lone, of New Orleans, together with John Currie, mate, and

Peter Miller, seaman, all of and belonging unto said schooner, who, having been duly sworn to declare the truth, deposed : That said vessel, being tight and strong, well manned and provided, and partially laden with fifteen thousand dollars in specie, about two thousand raw hides, and about one ton of copper, they sailed with her from Matamoras, bound for this place, on the 26th of June last, at six P. M.; during the night worked down, and passed the bar, when, the wind dying away, they were compelled to anchor, distant about fifty yards from the outer edge of the same, in 8 feet water; at 8 A. M., while lying in this situation, the schooner was boarded and captured by an armed boat from the French brig of war *Le Laurier*, making part of the French blockading squadron of ships of war on the coast of Mexico. The master of the *Lone*, with his papers, was removed immediately to the brig of war, and during the day the schooner was brought off and anchored under the guns of the same vessel, where an officer (with a prize-crew of eight men) from the brig was put in charge of her, and Captain Clark, with his mate, steward, and a Mexican passenger being alone left on-board of the *Lone*, all the rest of her crew and passengers were transferred to the brig of war; continued lying by the brig until the 30th at daylight, when the prize-officer was instructed by the commander of the brig to proceed with the schooner to Sacrificios, and accordingly got under way with her, and stood for said place, with light and variable weather, until the 4th of July, at 4 A. M., when the deck being in charge of the petty officer who acted as second to the prize-master, and the latter with the other watch being below, Captain Clark, assisted by his people, closed the hatches and companion-way, secured the prize-crew, and, regaining possession of his schooner, put her about and shaped his course for this port. On the 9th passed the bar of the Mississippi, and on the 11th reached this place.

And further the said master deposed, that when he was first taken on board of the brig of war, the commander of the latter vessel caused the register of the schooner to be delivered to him, and that he has continued to retain the same.

And thereupon these appearers, and especially the said master, did protest, and with him, at his request, I, notary, do by these presents most publicly and solemnly protest, against the commander and officers and crew of the said brig *Laurier*, for the forcible detention of his said schooner, and the taking of her out of his possession, and also for forcibly taking and retaining the register and papers of said vessel; holding them and the Government of France bound and accountable for all losses, costs and charges, damages and expenses, resulting or to result, suffered and sustained, or to be suffered and sustained, by reason of the premises.

Done and protested at New Orleans, the day, month, and year first afore written, the said protestors hereunto signing their names with me, notary.

JOHN CLARK,

PETER MILLER, his + mark,

JOHN CURRIE.

CARLILE POLLOCK, *Notary Public*.

I certify the foregoing to be a true copy of the original protest on [L. s.] record in my office. New Orleans, August 7, 1838.

CARLILE POLLOCK.

The Attorney General to the President.

ATTORNEY GENERAL'S OFFICE,

October 11, 1838.

SIR: In the investigation of the different points submitted for my examination respecting the vessel *Lone*, Captain Clark, and her cargo, I have been able to derive very little assistance, upon the important principles involved, from any opinions given by my predecessors. No similar question ever appears to have been submitted to their consideration. The public authorities of another country have never heretofore made an application to this Government to deliver up property claimed by, and in the possession of, a citizen of the United States, under circumstances like the present, upon the allegation of its forfeiture for a breach of blockade, and before any condemnation. Nor is any instance known to me in which this Government has been called on to interpose and restore to the captors property that was rescued from them by reason of a failure on their own part to make the capture sure. By the well-settled principles of international law, it is made the duty of the captors to place an adequate force upon the captured vessel; and if, from a mistaken reliance on the sufficiency of their force, or misplaced confidence, they fail to do so, the omission is at their own peril. No instance is known in which it has been regarded as a ground for asking such interposition as is now sought.

To these causes, which may account for the want of any precedent, is to be added the novel nature of the blockade itself. It has been resorted to, not as a warlike, but a peaceful measure for the reparation of an injury alleged to be committed by one nation upon another. The writers on international law seem not to have enumerated a blockade among the peaceful remedies to which an injured nation may resort, but class it among the usual remedies of direct hostility. No principles, therefore, have been laid down by them strictly applicable to the present case; and it can only be treated on those which refer to ordinary blockades in time of war.

These rules, then, must be the guide in giving to this subject the respectful consideration that is due; and the rights which belong to the captors of this vessel and cargo, under these rules, form the first point of inquiry.

Captain Clark had entered the port of Matamoras. He sailed from there, bound to New Orleans as his port of final destination. On this homeward voyage he was captured by a vessel belonging to the French squadron. The condition of this squadron at the time he entered the port, whether it was actually present, or so far absent as temporarily to relax the blockade, does not appear. Some days after the capture, he rescued his vessel, and, continuing his original voyage, brought her safe into New Orleans, where it terminated. If it were admitted that there was such a violation of the blockade as to justify, according to the law of nations, the original capture; and if further admitted, that the rescue of the vessel was, by the same law, an additional and lawful cause of condemnation, still, it is a principle equally well established and recognised, that the offence thus incurred never travels on with the vessel further than the end of the return voyage. If captured or recaptured in any part of that voyage, she is taken *in delicto*, and liable to be condemned; but, if she terminates the entire voyage in safety, that liability has altogether ceased;

nor can the captors demand her condemnation, much less her delivery to them.

It is a principle of international law equally well established, that the capture transfers no property in the vessel and cargo to the captors; but the title to it remains unchanged until a regular sentence of condemnation has been procured by some court of competent jurisdiction. Upon this principle, the captors in the present instance can claim no more property in the vessel and cargo, than they could have done had there been no seizure. Their right of property, whatever it may be, does not vest until the vessel shall be legally condemned, and, before that event, they cannot ask the delivery of the property.

On these grounds, whatever may be thought of the conduct of Captain Clark in entering the port of Matamoras, and subsequently rescuing his vessel, it is clear that, by the well-settled principles of international law, the captors who now claim the vessel and cargo have no right of property in her, and that her liability to condemnation (if it ever existed) has ceased by the termination of her voyage at the port of her destination.

The next point of inquiry suggested by this application is the authority of the Executive to direct the delivery of the vessel and cargo. Without discussing the relative functions and powers of the different departments of the Government, it is sufficient to observe that the case, as presented by the French Government, calls for a decision not executive, but judicial. It involves necessarily these questions: Was the blockade established and maintained according to the law of nations? Was the capture a lawful one? Was there a rescue, and with what attendant circumstances? And what is the legal effect of the rescue and safe arrival of the vessel at her port of final destination? These are points which it would be necessary to ascertain before the Executive could act; they are points strictly within the cognizance of judicial tribunals; and there are courts in which they may be fully investigated.

But, independent of this consideration, there is no constitutional right vested in the President to deliver up the property of an American citizen, claimed by him as his own, and in his actual possession, and not condemned, or legally adjudged to belong to another. Some years since, the jewels of the Princess of Orange, which had been stolen and brought to this country, were seized by the collector of New York, and libelled in that district, and an application for their delivery was made by the Government of Holland. My predecessor (Mr. Taney) gave several opinions in the progress of the proceedings. The inference fairly to be deduced from the whole of them is, that where there are different claimants to property, who can litigate their rights before the judiciary, the Executive cannot interfere; but he may order property to be restored to the rightful *undisputed* owner, in a case where the *United States alone*, under their revenue laws, have put in a claim for a forfeiture. I think I am safe in saying that no opinion, going farther than this, has ever emanated from this office. But, were the President to accede to the present application, it would be, in fact, to take the property from the possession of an individual once admitted to be the rightful owner, still claiming it as such, and never having had his title divested by the judgment of a court, upon the mere allegation of his having violated a blockade. This the President cannot do.

It is, however, satisfactory to know that, notwithstanding these views

as to the course of the Executive, there are ample means of redress left to the captors, should they have a legal right to this property; and that, if there has been any injury, the institutions of this country afford that full satisfaction which it is the object of the French Government to obtain by its present application. The admiralty courts of the United States, whose judgments are based upon the established principles of international law, as recognised by all modern and civilized nations, are open to the captors, and will administer justice commensurate with their rights. The only requisites necessary to give them jurisdiction exist in this case; for the parties to be proceeded against, and the property, are now within their power, can be reached by their process, and bound by their decrees.

In declining, therefore, to accede to the present application, on grounds of international law, as well as under his constitutional obligations, the President is not instrumental in interfering with the legal claims of those on whose behalf the Government of France has interested itself, but leaves them, as every just Government must be disposed to do, the amplest means of asserting those claims, and regaining any rights they may have lost.

I have the honor to be, sir, very respectfully, your obedient servant,

FELIX GRUNDY.

To the PRESIDENT of the United States.

References in support of the principles laid down in the foregoing opinion.

1. Acton's Rep. 36; Wheaton on Maritime Captures, 53, 54.
2. 2 Robinson's Rep., 129, 130; Wheaton's Elements of International Law, 248; 1 Kent's Com., 157.
3. 1 Kent's Com., 102, and cases there referred to.
4. Attorney General's opinions, book C, 265, 286, 289, 297.

Mr. Vail to Mr. Slidell.

DEPARTMENT OF STATE,

Washington, October 26, 1838.

SIR: A representation has been addressed to this Department by the minister of France against Captain Clark, of the schooner "Lone," of New Orleans, and the persons who assisted him in rescuing his vessel, after she had been seized by the French naval forces for a breach of the blockade of the Mexican ports. The act is represented by the French minister as one of treachery and violence against the officer having charge of the vessel, as an infraction of the principles and usages established by the law of nations, and an outrage upon the honor of the French flag.

As the case has already been brought under your notice by the collector of the customs, it is deemed unnecessary further to detail the particulars of the occurrence than you will find them stated in a report, of which a translation is enclosed, addressed by the prize-master to the French consul at New Orleans. Availing yourself of the information it contains, and of such other as you may be able to collect, you will, without delay, institute a strict inquiry into all the circumstances of the case; and, if you should find them such as to render Captain Clark and his abettors

liable to prosecution under the existing laws of the United States, you will lose no time in instituting legal process against them, and communicate the result to this Department.

I am, &c.

A. VAIL,
Acting Secretary.

THOMAS SLIDELL, Esq.,
U. S. Attorney East. Dist. Louisiana, New Orleans.

Mr. Slidell to Mr. Forsyth.

NEW ORLEANS, November 23, 1838.

SIR: I have the honor to acknowledge the receipt of the letter of the acting Secretary of State, dated October 26, 1838, with its enclosed documents.

When the affair of the schooner Lone was originally presented to my consideration by the collector, I made a diligent examination of the subject, and prepared for the collector a letter, which was by him addressed to the consul of France at this port. A copy of this letter, together with a statement of the circumstances of the case, so far as he could, after diligent inquiry, ascertain the same, was transmitted by the collector to the Secretary of the Treasury. Of the letter to the consul, and the statement of facts of Mr. Breedlove, (collector,) I would now enclose copies, could I obtain them; but the collector having mislaid his copies of them, I am obliged to refer you to those documents now in the possession of the Secretary of the Treasury, having been so transmitted by the collector, as above stated.

I know not how I could institute any proofs against Captain Clark and his abettors, under the existing laws of the United States. An indictment for piracy, certainly, I could not hope to have found by a grand jury, or sustained by a petit jury. A prosecution for assault and battery could only be based upon the assumption that the Lone was an American vessel—a position repudiated by the French officer and consul, who regard her as the prize of their nation.

From these circumstances, I am at a loss how to proceed; and am of opinion, on the contrary, that the case and the laws of the United States do not justify any action by me. But as my opinion may be erroneous, I beg that, if you should deem it expedient, the matter may be submitted to the Attorney General, upon the statement of Mr. Breedlove (above referred to) and the statement of the French officer, as communicated; and if, in his opinion, any judicial action can be had, that he would be pleased to instruct me in the premises.

I have the honor to be, very respectfully, your obedient servant,

THOMAS SLIDELL,

U. S. Dist. Att'y for E. Dist. of La.

HON. the SECRETARY OF STATE, *Washington.*

Secretary of State to the Attorney General.

DEPARTMENT OF STATE,

Washington, December 10, 1838.

SIR: By direction of the President, I enclose a letter from the district attorney of New Orleans, for your opinion upon the case therein presented.

I am, respectfully, your obedient servant,

JOHN FORSYTH.

FELIX GRUNDY, *Attorney General of the U. S.*

Mr. Grundy to Mr. Forsyth.

ATTORNEY GENERAL'S OFFICE,

December 11, 1838.

SIR: I have the honor to acknowledge the receipt of yours of yesterday, enclosing the letter of the district attorney of New Orleans upon the subject of the capture of the schooner Lone.

I cannot discover any error in the view of the subject presented by the district attorney. Were he to commence a judicial proceeding against Captain Clark, he would, as the case now stands, meet with the difficulties he anticipates, and, in my opinion, be finally defeated. I cannot, therefore, recommend any judicial action on the subject.

I am, sir, very respectfully, your obedient servant,

FELIX GRUNDY.

The Hon. SECRETARY OF STATE.

Consul Hargous to the Secretary of State.

CONSULATE OF THE UNITED STATES OF AMERICA,

Vera Cruz, November 29, 1838.

SIR: I have only a moment to inform you that the French squadron, under Rear-Admiral Baudin, attacked the castle of San Juan de Ullea on the 27th instant, at half-past two o'clock in the afternoon. The attack continued without intermission about five hours, when the commander of the castle demanded an armistice, which terminated by its surrendering to the French, who took possession and hoisted their flag on it at about two o'clock yesterday afternoon. This city, under command of General Rincon, has also capitulated, and, as far as can be known, will remain for the present in possession of the Mexicans, with a garrison of only one thousand men. The admiral has declared the port free to all commerce.

Herewith I have the honor to enclose a copy of an official communication from T. C. Rudolph, Esq., commanding United States revenue-cutter schooner Woodbury, which vessel sailed yesterday for New Orleans.

I have the honor to be, sir, most respectfully, your most obedient servant,

L. E. HARGOUS,

Acting United States Consul.

HON. JOHN FORSYTH,

Secretary of State, Washington.

U. S. REVENUE-CUTTER WOODBURY,

Isle of Sacrificios, November 28, 1838.

SIR: I have to inform you that the pilot I received on board to take the vessel out of Vera Cruz, was taken by force out of her by the French sloop of war "Creole," shortly after my getting under way; and, consequently, left me to bring her here without a pilot. I have, therefore, to request that, in your communication to the General Government of the United States, you will make a representation of this affair.

Respectfully, your obedient servant,

THOMAS C. RUDOLPH, *Captain.*

I certify to the correctness of the above,

L. C. HARBY, *First Lieutenant.*

The above is a true copy from the original,

L. E. HARGOUS,
Acting Consul U. S. A.

Mr. Woodbury to Mr. Forsyth.

TREASURY DEPARTMENT,

December 24, 1838.

SIR: I have this day received from the collector at New Orleans a copy of the journal of the United States revenue-cutter Woodbury, for the month of November last, and have the honor to inform you that, under the date of 28th November, it is stated in the journal that "At one o'clock P. M., the admiral sent a boat on board, and demanded our pilot, which, with great reluctance, we yielded."

Nothing else is stated in relation to the matter.

I am, very respectfully, your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

HON. JOHN FORSYTH,

Secretary of State.

Official correspondence between the Consul of France and that of the United States, with other documents relating to the affair of the American barque "Madonna" of Philadelphia.

PROTEST.

CONSULATE OF THE UNITED STATES,

Montevideo, October 29, 1838.

By this public instrument of protest, be it known to all whom it may or doth concern: That, on the 21st day of October, 1838, did personally appear before me, Robert M. Hamilton, consul of the United States to the

Oriental Republic of Uruguay, Michael Wise, master of the American barque "Madonna," of Philadelphia, who did depose and say :

That he cleared out regularly through this consulate, (as well as also through the offices of the local authorities of this city,) on the 20th instant, for the purpose of proceeding on his destined voyage. That at 7 h. 30 m. P. M. he commenced unmooring the vessel ; and at 9 h. 30 m. P. M. got the anchor to the bows, made sail, and stood out of the harbor.

That at 10 o'clock, P. M., on passing a French "corvette" of war, he was hailed, to which he answered that the barque was an American, bound to sea, when they (the French) commenced firing with small-arms, the balls of which passed close to him ; when he laid the main-topsail aback, on which, at the same moment, a French brig of war, lying ahead of him, began to fire also, the balls of which passed among the crew. That he then let go his anchor, and lowered down his sails, when six shots more were fired into the barque from the said brig.

That, in 20 minutes after they ceased firing, an armed boat came on board the "corvette," the officer of which told him that they had orders to let no vessel pass, as they were watching Admiral Brown's squadron. That a boat then came from the brig, when he, Captain Wise, requested the officer of the boat to come on board, and examine the barque's papers, as he wished to proceed on his voyage ; which he refused, and ordered him to lie to until morning.

That on this day, at six o'clock, A. M., he was boarded by a boat from the "corvette," the officer of which informed him that permission would be sent from the admiral to allow the barque to proceed to sea ; that he, Captain Wise, remained on board until 9 h. 30 m. A. M., during which no permission came.

Therefore he, the said Michael Wise, did declare to protest, and by these presents does solemnly protest, against the insult offered to the United States flag by the aforesaid French vessel of war, as likewise against all whom it may or doth concern, for all losses, damages, charges, and expenses which have been incurred, or may hereafter accrue, in consequence of the same ; and declares that said losses, damages, charges, and expenses are and ought to be borne by the French Government, or the persons acting under their orders ; the same having happened to him while in pursuit of his legal voyage, as hereinbefore related, and not through the default of him, Captain Wise, or any of his crew.

And likewise appeared Joseph B. Briard, mate, and Charles Adams and George Bromley, seamen of the aforesaid barque "Madonna ;" and the foregoing protest being distinctly read over to them, they did severally declare, on oath, that the contents of the same were just and true as therein stated, according to the best of their knowledge and belief.

In testimony whereof, they, together with the said master, have hereunto signed their names.

MICHAEL WISE,
JOSEPH B. BRIARD, *Mate.*
CHARLES ADAMS, *Seaman.*
GEORGE BROMLEY, *Seaman.*

And I, the aforesaid consul, at the request of said Michael Wise, do likewise protest against the same, and have executed this public instru-

ment of protest to serve and avail him and all others whom it may or doth concern.

In testimony of which, I hereunto subscribe my name, and affix the seal of my office in the city of Montevideo, October 21, 1838.

R. M. HAMILTON.

No. 1.

Copy of a letter from the French Consul, on his hearing of the affair.

[Translation.]

FRENCH CONSULATE,

Montevideo, October 21, 1838.

MR. CONSUL: The arrangement made to prevent the departure of the "flotilla" under the orders of Admiral Brown from the port of Montevideo, occasioned last night a mistake in the execution of the orders of Admiral Le Blanc.

The commanders of the vessels of war have stopped a merchant vessel, which they did not know until after she was visited belonged to your nation. At 4 o'clock this morning she received permission to sail, but the captain refused; and, without any lawful motive, hoisted his flag union down.

As soon as the circumstance came to the knowledge of the admiral, he hastened to express his disapprobation to the commanders of the "Indienne" and "Badine."

It must, however, be observed, that the captain could not be ignorant of the arrangements made to prevent the departure of the flotilla of General Brown. It is therefore rather extraordinary that, contrary to general custom, the captain should have got under way at 10 o'clock at night, without taking any measures to make himself known. The mistake must therefore partially be attributed to himself.

I have thought it my duty, Mr. Consul, to give you these explanations, to avoid any misunderstanding, and to declare to you, at the same time, that the vessel was at liberty to depart since 4 o'clock this morning.

Please to accept, Mr. Consul, the assurance of my distinguished consideration.

RAIMOND BARADERE.

To the CONSUL of the U. States, Montevideo.

P. S.—If you desire, Mr. Consul, to see the orders given by the admiral, I will immediately send you the original.

RAIMOND BARADERE.

Copy of a letter from Admiral Le Blanc, addressed to the French Consul, and sent by the latter to the Consul of the United States for perusal.

[Translation.]

MINERVA, October 21, 1838.

MR. CONSUL: Last night the captains of the "Indienne" and "Badine" stopped a merchant vessel of the United States of America that was going

out of the port of Montevideo; they did not permit her to depart until 4 o'clock in the morning. The orders these captains received to oppose the departure of any vessel belonging to the "flotilla" under the command of General Brown, did not authorize them in any way to extend these orders to foreign vessels, and gave them no right to annoy or intercept their navigation. The admiral expresses to the captains of the *Indienne* and *Badine* his lively displeasure at the conduct they pursued towards this American vessel; conduct so much the less justifiable, that they could not have mistaken her for any one of the vessels they had orders to stop; and especially, after having known the nation to which she belonged, they had no right or motive whatever to detain her.

LE BLANC,

Rear Admiral, commanding in chief.

No. 1.

CONSULATE OF THE UNITED STATES,
Montevideo, October 21, 1838.

The undersigned, consul of the United States, has the painful duty to perform of advising Raimond Baradere, Esq., consul of France, that a most glaring insult has been offered to the flag of the United States, by the French squadron lying near this harbor.

The American barque "*Madonna*," Michael Wise, master, got under way last night about 10 o'clock, intending to proceed to sea. When near one of the French squadron, she was hailed; the captain of the barque answered, and stated the character of his vessel; after which he "backed" his main-topsail, when several muskets were fired from a "corvette" and "brig," endangering the lives of the captain and crew, who are citizens of the United States; in consequence of which, the captain ordered his vessel to be anchored. After which, two boats belonging to the squadron went alongside the barque, and one of the officers boarded the vessel, when the said captain offered to exhibit his papers for examination, which was declined; after which, the two boats left the vessel.

At 6 A. M. this day, the said barque received another visit from a boat of the squadron, the officer of which informed the captain that he would procure from the admiral *permission* for said barque to depart by 9 o'clock A. M., thus augmenting the insult already offered to the flag of the United States. The captain remained on board his vessel until a quarter after 9 o'clock. No boat having returned at that time from the squadron, the captain came on shore, and appeared at the consulate, to enter his protest against these extraordinary proceedings of the French squadron.

The undersigned trusts that the French consul will take such measures as he may deem necessary to investigate the cause of the outrage committed upon the flag of the United States in this instance, and to ascertain upon what principle the said barque "*Madonna*" has been detained by the French squadron.

The undersigned avails himself of this opportunity to observe, that in no case will *permission* be asked of the admiral commanding the naval forces for vessels bearing the American flag to proceed on their destined voyages, inasmuch as the Government of the United States are at all

times in readiness to protect their commerce from unjust pretensions, and their flag from insult.

The undersigned salutes the French consul with distinguished consideration and respect.

R. M. HAMILTON.

TO RAIMOND BARADERE, Esq.,

Consul for his Majesty the King of the French, Montevideo.

No. 2.

CONSULATE OF THE UNITED STATES,

Montevideo, October 21, 1838.

MR. CONSUL : I have had the honor to receive your communication of this date, relative to the unhappy occurrence which transpired last night between the French vessels of war and the American barque "Madonna;" the translation of which having been this moment handed to me, I hasten a reply to the same. I have also the translation of Admiral Le Blanc's, to you directed, and tender you my thanks for the perusal thereof. It affords me infinite satisfaction and pleasure to learn that the conduct pursued by the captains of the "Indienne" and "Badine," in their attack upon the American barque "Madonna," has met with the decided displeasure of the commander-in-chief of the squadron, and that he has expressed the same to them, pointing out their unjustifiable conduct, as they could not have mistaken so large a vessel as the "Madonna," for one of the small armed vessels in this harbor under the command of Admiral Brown.

In your communication, I observe the following remarks : 1st. "It must be observed, however, that the captain could not be ignorant of the arrangements made to prevent the departure of the flotilla of General Brown." Admit the fact; but I would ask, what bearing had such arrangements upon an American ship? 2d. "It is therefore rather extraordinary, that, contrary to general custom, the captain should have got under way at 10 o'clock at night, without taking any measures to make himself known." I beg leave to differ in opinion with you. I do not think it at all extraordinary that vessels ready for sea should take advantage of the first favorable wind, whether by day or night, and particularly as they are not prevented from doing so by this Government. 3d. "The mistake must, therefore, partially be attributed to himself." In reply to the last sentence, I would merely observe, that I consider the remark gratuitous on your part, as the admiral, in his note to you, (which you politely sent me for perusal,) does not attach any misconduct on the part of the American captain, but appears to deplore the mistaken duties of his own officers.

I beg leave, sir, to tender you my thanks for the promptness with which you forwarded me "explanations with the view of preventing misunderstandings;" and be assured, sir, I fully reciprocate such good intentions, as it would be most painful to me that any thing should occur to disturb, in the slightest degree, the harmony and friendly intercourse that exist between our respective nations; and I doubt not but my Government, when informed of the circumstances and attendant explanations, will be satisfied that there was no intention, on the part of the commander-in-

chief of the French forces on this station, to molest, or cause unnecessary restrictions to be placed upon, American vessels; but will attribute the affair, as I do, to a mistaken idea of duty on the part of his officers. But while stating my conviction that the *admiral* meant no intentional insult to the flag, I would wish it to be distinctly understood that this expression of my sentiments may in no degree affect the course that the captain or owners of the barque may think proper to pursue hereafter.

I avail myself of this occasion to reiterate the assurances of my consideration and regard.

R. M. HAMILTON.

RAIMOND BARADERE, Esq.,

Consul for H. M. the King of the French, Montevideo.

No. 1.

CONSULATE OF THE UNITED STATES,
Montevideo, October 23, 1838.

SIR: I herewith enclose you sundry documents relative to an affair of a most unpleasant nature which occurred on the night of the 20th instant, between the French naval forces, near the entrance of this harbor, and the American barque "Madonna," Wise master, of Philadelphia; for particulars of which I beg leave to refer you to said enclosures, which will enable you to enter into a correspondence with Admiral Le Blanc upon the subject of their contents. I would observe, that, although the admiral expresses his "lively displeasure" at the conduct his officers thought proper to pursue in the case of the "Madonna," yet I consider it a very inadequate atonement for the insult offered to the flag of our country.

I am, very respectfully, your obedient servant,

R. M. HAMILTON.

To Lieutenant Commandant MACKENZIE,

United States Brig Dolphin.

P. S. I have received no answers to my communications Nos. 1 and 2, from the French consul. The letter from him, under date 21st instant, came to my hands prior to my despatch No. 1 reaching him.

R. M. H.

CONSULATE OF THE UNITED STATES,
Montevideo, October 25, 1838.

This is to certify, that, on the day of the above date, the undersigned, consul of the United States to this republic, received a visit from the commander of the French vessel of war the "Pearl," accompanied by the flag captain of the admiral, the former of whom stated that the "Indienne" and "Badine" were under his direction, and that the admiral held him responsible for the attack made by mistake upon the barque "Madonna;" and that the admiral had placed him under arrest, which he assured me "upon his honor" was the case, but had granted him permis-

sion to come on shore, with the view of giving satisfactory explanations relative to the affair. That the admiral had also reprimanded the commanders of the "Indienne" and "Badine," observing to them that they had caused his "highest displeasure" on account of what had taken place with regard to the "Madonna" having been stopped by the two last-mentioned vessels, which had fired several muskets for that purpose. And he further observed, that when he had given the explanations, he hoped they would be considered satisfactory, taking into consideration his punishment, and the willingness of the admiral, as well as himself, that the affair might be amicably settled; and that the *amende* thus given would be sufficient to satisfy the American Government.

The reason of the mistake having taken place, he stated, was in consequence of his having received information that Admiral Brown's vessels were to sail that night, and that the regulations of the port prohibited any merchant vessels to leave after sunset; that the vessel had no flag hoisted (it being night) whereby to distinguish her nation; that the night was dark; and that, in coming towards them, showing only the bow, they could not distinguish whether she had two or three masts; and as to her dimensions, that one of Admiral Brown's vessels, although a brig, was nearly as large as the "Madonna." That the only two muskets that were fired from the "Indienne" (which vessel fired first) were without balls; that those which were fired from the "Badine" were pointed ahead of the vessel, and others in the air; as a proof of which, no person was wounded, and not even a mark could be discovered in hull, rigging, or sails of said vessel, which would have been almost impossible had they been aimed at her; that six or seven muskets were fired from the "Badine," but not one after they heard the anchor drop; that at 4 o'clock, A. M., a boat was sent on board to tell the captain of the barque (when they saw she had not departed) that she might sail; which he then refused, stating that he wished first to enter his protest to enable him to recover damages hereafter.

R. M. HAMILTON.

Witness: JNO. FARRAS.

CONSULATE OF THE UNITED STATES,

Montevideo, October 29, 1838.

SIR: I have the honor to enclose you a copy of sundry explanations received verbally from Captain Segretier, commander of the "Pearl," French ship of war. John Farras, Esq., Swedish consul general, whose name is upon said document as witness, did me the favor to act as interpreter upon the occasion; and I trust that, when you have perused the same, you will coincide in opinion with me that full satisfaction has been given by the parties interested for the mistake that occurred relative to the American barque "Madonna."

In the course of this day I shall doubtless receive from the consul of France the only letter now required from him upon the subject; and, so soon as received, will inform you thereof, and send you a copy of my ultimate reply.

With sentiments of esteem and regard, I remain, sir, your obedient servant,

R. M. HAMILTON.

To Lieut. Commdt. A. S. MACKENZIE,
United States Navy, commanding U. S. brig Dolphin.

No. 2.

CONSULATE OF FRANCE,

Montevideo, October 29, 1838.

MR. CONSUL: According as it was agreed upon in the conference I had the honor to have with you last Saturday, 27th instant, I now acknowledge the receipt of your communication of the 21st. I have also received your protestation, which you thought proper to address me the same day, although it was preceded by explanations from Admiral Le Blanc, which he desired me to give you, relative to the affair of the "Madonna."

I congratulate you, Mr. Consul, that this affair, which at bottom was nothing more than a misunderstanding, will have no disagreeable result; and I sincerely participate the lively satisfaction that you yourself evince at the happy termination.

It is with pleasure, Mr. Consul, that I reiterate the assurance of my consideration.

RAIMOND BARADERE,

Consul of France.

TO ROBERT M. HAMILTON, Esq.,

Consul of the United States, Montevideo.

No. 3.

CONSULATE OF THE UNITED STATES,

Montevideo, October 29, 1838.

The consul of the United States has the honor of acknowledging the receipt of a communication, under this date, from Raimond Baradere, Esq., consul of France; and is most happy in being enabled to inform him that the explanations received relative to the affair of the "Madonna," and the notice taken of the same by Rear Admiral Le Blanc, have given the liveliest satisfaction to himself, and he doubts not but it will be equally so to his Government.

The consul of the United States would beg leave, through the consul of France, to solicit the admiral to suspend any unpleasant restrictions which he may have considered necessary to place upon any officer or officers engaged in the late unhappy occurrence, and particularly such as may affect Captain Segretier, of the "Pearl;" that gentleman having done him the honor of a visit for the purpose of fully "explaining to his satisfaction" the causes of the mistake, having liberty from the admiral to do so; and he feels great pleasure in observing that said gentleman succeeded to the fullest extent.

The consul of the United States participates most cordially in congratulation with the consul of France upon the happy termination of the subject of their correspondence, and avails himself of the opportunity to offer to the consul of France the reiterated assurances of his distinguished consideration and sincere regard.

R. M. HAMILTON.

TO RAIMOND BARADERE, Esq.,

Consul for his Majesty the King of the French, Montevideo.

CONSULATE OF THE UNITED STATES, *Montevideo.*

I, Robert M. Hamilton, consul of the United States of America to the Oriental Republic of Uruguay, do hereby certify that the foregoing is a true copy of the official correspondence between the consul of his Majesty the King of the French and the undersigned, with that of other documents relating to the affair of the American barque "Madonna," of Philadelphia.

In testimony whereof, I hereunto set my hand, and affix the seal of my [L. s.] office, in Montevideo, October 29, 1838.

R. M. HAMILTON.

Consul Hamilton to Mr. Forsyth.

CONSULATE OF THE UNITED STATES,
Montevideo, November 30, 1838.

SIR: At the request of Lieutenant Commandant A. S. Mackenzie, now in command of the United States ship *Fairfield*, I have the honor to enclose you copies of the correspondence between that gentleman and Rear Admiral Le Blanc, commander-in-chief of the French naval forces on this station, relative to the detention of the American barque "Madonna," by a part of the French squadron near this port.

The United States ship *Fairfield* and brig *Dolphin* are near Buenos Ayres.

I have the honor to be, sir, very respectfully, your obedient, humble servant,

R. M. HAMILTON.

To the Hon. JOHN FORSYTH,
Secretary of State, Washington.

No. 1.

UNITED STATES BRIG *DOLPHIN*,
Montevideo, October 23, 1838.

SIR: Charged by Commodore J. B. Nicolson, commanding the United States naval forces on the coast of Brazil, with the protection of American commerce in the river La Plata, I have the honor to call your attention to an act of unprecedented violence and outrage alleged to have been committed on the American barque *Madonna*, of Philadelphia, on the night of the 20th instant, whilst going out of the harbor of Montevideo, by his Majesty the King of the French's ship *Indienne* and brig *Badine*, under your orders. This alleged outrage, as minutely described and sworn to under oath by the master, mate, and two seamen of the *Madonna*, consisted in arresting that vessel on her passage out of the harbor of Montevideo, firing several musket-shots at her to cause her to come to, and continuing to fire at her after she had come to, and, with utter recklessness of the destruction of human life, even after she had let go her anchor. It is alleged by the master and crew of the *Madonna*, that when first hailed from the *Indienne*, reply was made that the barque was an American bound to sea; and that, subsequently, an armed boat came from the *Indienne*, the offi-

cer of which was personally informed of the American character of the Madonna, and requested to examine her papers, that she might proceed to sea; which was refused, and the vessel ordered to remain at anchor.

It is not my present purpose to comment upon this unparalleled outrage, alleged to have been committed on an unarmed merchantman, on board of which were embarked peaceful citizens of the United States in the pursuit of their lawful avocations, and an American female, the wife of the master, who, in preparing to share the hardships of her husband's career, could never have counted among the number the chances of such an armed assault, by two men-of-war of a nation in amity with the United States, within a friendly port, of which both were enjoying the hospitality; nor on the utter disregard of human life evinced by the assailants; nor yet on the insult offered to the United States, by the forcible detention of an American merchant vessel in the prosecution of her voyage. My purpose simply is, to enclose to you the protest of the master and crew of the barque Madonna, in which the circumstances of the outrage are detailed minutely, and solemnly sworn to, in order to request the favor to be informed how far the facts of the case are admitted or denied by you, with the grounds of your supposed justification, that I may be governed thereby in the demand of such ample reparation as the offended rights and honor of the United States may call for.

Had I been present when these circumstances are alleged to have occurred, it would have been my duty to have exerted the force under my orders, which, though small, is yet sufficient, while bearing the flag of my country, for the assertion of any principle connected with its interests or honor, to protect the unmolested departure of this American vessel. Having, unfortunately, been at a distance from the scene of outrage, it is incumbent upon me to take the earliest occasion of my return to seek such explanations and redress as the circumstances may render necessary.

I have the honor to be, very respectfully, sir, your most obedient,

ALEXANDER SLIDELL MACKENZIE,

Lieutenant commanding.

Rear Admiral LE BLANT,

*Commanding the naval forces of his Majesty the King of
the French, on the coasts of Brazil and the Pacific.*

No. 2.

MINERVA,

Montevideo, October 24, 1838.

SIR: I am unable to comprehend the motive of the remonstrance (*r  clamation*) which you have addressed to me to-day on the subject of an occurrence, concerning which the consul of your nation has received every desirable explanation. I did not believe, sir, that, after having informed your consul that the circumstance of which you complain was the result of a misunderstanding upon the part of two captains, who have been severely censured by me, you should persist in finding it an insult to your commerce and your flag. There is no insult, sir, where there is no intention to insult; and when I expressed my regret at an accident concerning which I had already given explanations of a character to prove that

it was the result of an error, which I condemned, I did not expect to receive new remonstrances concerning an affair which, in reality, had happily been attended with no serious consequences.

I cannot conclude without remarking to you that the language in which you call upon me for explanations, which have already been given to your consul, and with which he was satisfied, is not in harmony with the friendly sentiments which exist between our nations, nor such as, on a similar occasion, I should myself have used, though quite as susceptible as you can be concerning the honor of the nation to which I belong, and the dignity of its flag.

I have the honor to be, with perfect consideration, sir, your most obedient servant,

L. LE BLANC,

*The Rear Admiral commanding in chief
the Brazil and Pacific stations.*

To the COMMANDER of the brigantine *Dolphin*.

No. 3.

UNITED STATES BRIG DOLPHIN,

Montevideo, October 24, 1838.

SIR : I have the honor to acknowledge the receipt of your communication of this date, in reply to mine of yesterday. I do not find, on attentively considering this communication, that you have made any answer to my request "to be informed how far the facts of the case are admitted or denied by you, with the grounds of your supposed justification, that I may be governed thereby in the demand of such ample reparation as the offended rights and honor of the United States may call for."

Instead of the necessary answer to my request, you have furnished me with little else besides your views as to the nature of what constitutes a national insult. Notwithstanding your views on the subject, I persist in considering that the flag of my country, and the persons of its citizens, have been rudely and inexcusably outraged; and that this outrage requires a more ample reparation than is to be found in the simple fact of your having severely censured (*vivement blâmé*) the commanders by whom it was immediately perpetrated.

With reference to your concluding remark, that "the language in which I have asked explanations of you, which have already been given to my consul, and with which he is satisfied, is not in harmony with the friendly sentiments which exist between our nations, nor such as, under like circumstances, you would yourself have employed," I have only to reply that, with every respect for your personal character, which has been held by me in the highest estimation since I have had the honor of knowing you, no less than for the distinguished station which you occupy, and with every disposition to defer to you in matters purely personal to myself, I yet recognise no right in you to prescribe the language in which I am bound to apply to a distinguished functionary of a foreign Power in amity with the United States, for explanations of an outrage committed by armed vessels under his orders upon a vessel bearing the flag of my country. Simple as is my rank, and inconsiderable as is the force under my command,

I here represent the armed power of my country afloat, as you do that of France. Under these circumstances, whilst studiously careful to omit nothing of that courtesy which was due to yourself and to your station, I felt entitled to speak to you as an equal to an equal.

With regard to the explanations given to the consul of the United States, and with which he is said to be satisfied, I am in no measure bound by the course he may have deemed proper to pursue. I have my duties connected with the protection of American commerce apart from his; and these duties compel me to recall your attention to the letter which I had the honor to address you, with the date of yesterday, and to beg the favor of your more distinctly replying to it.

Your communication has found me in the confusion of a sudden and unexpected departure for Buenos Ayres; but, deprived as I am of the leisure for replying to it with the deliberation which its importance demands, I cannot depart with the idea of leaving you even temporarily under the impression that it could be conceived by me as final or in any degree satisfactory.

I have the honor to be, very respectfully, sir, your most obedient,
ALEX. SLIDELL MACKENZIE,
Lieutenant commanding.

Rear Admiral **LE BLANC,**
*Commanding the naval forces of his Majesty the
 King of the French on the coasts of Brazil and the Pacific.*

No. 4.

MINERVA, October 25, 1838.

SIR: I have had the honor of making known to you that, from the moment of my being first informed of the unfortunate event which took place on the night of the 20th—21st of this month, of which the only consequence had been the detention at anchor, during a few hours of the night, of the vessel of your nation called the *Madonna*, I had hastened to send to your consul to explain to him how the error had occurred, to express to him all my regret on the occasion, and to give him the assurance that in this circumstance there had been no intention to cause injury to a vessel belonging to a friendly Power, still less to insult its flag.

I testified to the consul of the United States, through the medium of the consul of France, all the regret I felt at this circumstance, and informed him, at the same time, that I had censured the captains of the *Indienne* and *Badine* for the fault which they had committed in detaining, by a blameable mistake, a vessel of a friendly Power at anchor during several hours of the night.

The consul of the United States appreciated these frank explanations, which I had hastened to address to him before he had called for them; he answered that he was satisfied with them. I might then well be astonished to find your returning to an affair which I considered entirely terminated; and especially to hear you bring forward new accusations of insult against your flag, when you should have been informed by your consul that no fact existed which could furnish a motive for a supposition of that nature.

The explanations which your position gives you a right to ask of me, I have neither motive nor intention to refuse to you; only I am bound

to remark, that the language in which you called for them was not such as was employed towards officers of your country by a French authority under circumstances of far greater gravity than those which now occupy us.

I come to the explanations; and I will proceed to lay them before you, as was done in my name before your consul.

The 20th October, at 10 o'clock in the evening, the night being dark, the *Indienne*, one of the four vessels appointed to oppose the departure of the flotilla of General Brown, perceived in the obscurity a sail coming from the interior of the harbor, and appearing to steer towards her; she took her for one of the enemy's vessels, hailed her, and, receiving no answer, fired two musket-shots of warning into the air; the sail then changed her course, and steered towards the *Badine*, which, seeing her come towards her, hailed her in turn, and fired in succession five musket and two pistol shots to fix her attention, and oblige her to comply with the order which was given her to anchor. None of the shots fired by the *Indienne* or *Badine* were directed towards the vessel in a manner to strike her; neither was she struck by any of them: all were fired so as pass over her masts. At the seventh shot the vessel had anchored and lowered her sails; immediately the firing ceased.

This vessel had not yet been recognised; a boat from the *Indienne* went alongside of her for the purpose; it was then, only, that it was learned that she was an American, was called the *Madonna*, and was leaving the harbor for sea. The officer of the boat explained, as far as he was able, that the vessel had been taken for one of Brown's, which the French corvette was ordered to hinder from departing; and that this error alone had been the occasion of obliging him to anchor. The captain of the *Madonna* answered, that since he had been forced to anchor, he would remain to protest the next day before his consul. Here the officer of the boat was wrong in not insisting in making the captain understand that he was free to pursue his voyage. The officer then made his report to the commander of the *Pearl*, who, in virtue of being the oldest officer, commanded all the vessels. At four o'clock in the morning, the captain of the *Pearl*, seeing that the vessel still continued at anchor, sent a boat again on board to prevent some misunderstanding which he suspected, and to say to the captain that nothing detained him, that he was perfectly free in his movements, and that he could continue his voyage whenever he pleased: he received a second time for answer, from the captain of the *Madonna*, that since he had been forced to anchor, he would not proceed, but would wait to protest before his consul. It has never been a question of permission to be asked of me, and which would have been vainly waited for, to depart. At 7 o'clock in the morning, a boat from the *Pearl* brought me a letter from the captain of that corvette, informing me of the events which had happened during the night. It was then that I dispatched the chief of my staff to cause to be given to the consul of the United States, by the intervention of the consul of France, the explanations which he at that time received. It results evidently from all this, that the shots fired were simply intended to attract attention, without being aimed at the vessel, which was not touched by one of them; that they were fired for a vessel under sail, which the darkness of the night prevented from being distinguished, and her nationality from being recognised, and which was believed to be one of the enemy's vessels expected

to leave the port; that this motive had led to her being compelled to anchor; and that it was only after her anchoring that she was recognised to be an American merchant vessel; that then some misunderstanding took place; after which, the vessel remained at anchor, as much for the purpose of complaining the following day, as because the commander could have believed that any obligation to do so was imposed upon him; and that finally, at 4 o'clock in the morning, it was repeated to the commander, in a formal manner, that nothing hindered him from departing; and, then, if he did not do so, it was because he did not choose to.

I do not think, sir, that in all the facts which I have just laid before you, you can recognise any intention to injure the citizens of the United States, or to insult the flag of your nation. I have already protested against any such interpretation. I will add to the expressions of regret which I have already manifested, that of not having been informed beforehand that the Madonna, by an extraordinary exception, intended to sail during the night, as, in that case, measures of precaution would have been taken to avoid every cause of error or accident to that vessel.

I hope, sir, that I have furnished satisfactorily the explanations which you have done me the honor to ask of me, and that they will destroy the unfortunate impression produced by a fortuitous accident, which, moreover, was happily attended with no serious consequences.

I beg you, sir, to receive the assurance of my sentiments of most perfect consideration.

L. LE BLANC,

*The Rear Admiral commanding in chief the
stations of Brazil and the South seas.*

To Mr. SLIDELL MACKENZIE,

*Lieutenant commanding the brigantine
of the United States of America, Dolphin.*

No. 5.

UNITED STATES BRIG DOLPHIN,

Montevideo, October 27, 1838.

SIR: I have the honor to acknowledge the receipt, yesterday, of your communication dated the 25th of October, in answer to mine of the 24th, recalling your attention to my original communication of the 23d, in which explanations were asked as to the attack upon, and detention of, the American barque Madonna, by the Indienne and Badine under your orders.

I am most happy to observe the pains which you have taken to place the whole affair in the least offensive light possible; the promptness with which you have disavowed the intention or idea of any insult to the flag of the United States; and the value which you evidently attach to "the friendly sentiments existing between our two nations," to which you adverted in your first communication, by thus removing every thing in this circumstance which was likely to have impaired them.

It was my intention, when you should have admitted the important facts of firing upon and detaining the Madonna, to have called upon you for such a notice of the conduct of the officers who had violated your orders, as would furnish an effectual guaranty that, in future, no Ameri-

can vessel would be thus recklessly assailed. Your promptness, however, in censuring the commanders of the *Indienne* and *Badine*, in your order of the day of the 21st October, a copy of which was communicated by your order to the consul of the United States, and subsequently in arresting the commander of the *Pearl*, under whose orders the other commanders were acting, which commander waited upon the consul of the United States on the 25th instant, for the purpose of stating the fact of his arrest and extenuating circumstances of the attack on the *Madonna*, leave me without motive or desire to prolong this discussion.

I feel bound, however, to advert to that passage in your letter in which you express regret that you "had not been informed beforehand that the *Madonna* had, by an extraordinary exception, the intention to depart in the night, as in that case precautionary measures would have been taken to prevent all cause of error or accident to that vessel." I am far from sharing this regret, as I should have considered any application of the sort to you, from the master of the *Madonna*, as more to be deplored than the attack which it might have prevented. This would have amounted, in point of fact, to the very request of permission to depart; the idea of which you disavow in that part of your letter in which you say "it was never a question of any permission to be asked of me, and which would have been vainly waited for, to depart."

I am the rather induced to advert to this subject, involving a sacred principle, that the same idea is introduced into the letter of the consul of France to the consul of the United States, of the date of the 21st of October. "Nevertheless," he writes, "it must be observed that *this* captain could not be ignorant of the arrangements which had been made solely to oppose the departure of General Brown. It is, then, very extraordinary that, in opposition to the generally observed custom, *this* captain should have got under way at ten o'clock in the evening, without furnishing any means of being recognised. He may thus partly attribute to himself the event which has happened." Of this pretension on the part of the consul of France, and of the mode in which it is expressed, I will only say, that they are quite as offensive as the attack itself, which his letter was intended to atone for; and lest this letter should fail to be properly characterized before it is brought under the notice of the Government of the United States, I will say here, that it seems to me to bear internal evidence of having been written with reluctance and reservation, and that its whole tone and character are rather recriminating than explanatory.

With regard to the very different course which you have pursued in this matter, in promptly censuring the commanders who had violated your orders; in arresting the superior officer, and causing him to appear before the consul of the United States; in requesting the consul of France to make the explanations, of which he so imperfectly acquitted himself; and, finally, in the readiness with which you have entered into the details contained in your highly interesting letter of the 25th instant, I am most happy to recognise on your part a lively desire, from the first, to make honorable reparation for the unintentional injury done to the flag of my country.

I will add, in conclusion, that I most cordially share the wish expressed by you, that, whatever unpleasant impressions may have grown out of these circumstances may be forever removed: nor do I doubt that the

affair in its present aspect will be entirely satisfactory to Commodore J. B. Nicolson, to whom I shall hasten to make it known, and to the Government of the United States.

I have the honor to be, very respectfully, sir, your most obedient,
ALEXANDER SLIDELL MACKENZIE,
Lieutenant commanding.

Rear Admiral **LE BLANC,**

*Commanding the naval forces of his Majesty the King of
the French, on the coasts of Brazil and the Pacific.*

